



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P. O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO
ATTENTION OF

CESAJ-DP-I (1110-2-1150A)

26 September 2000

MEMORANDUM FOR Commander, South Atlantic Division, Atlanta,
Georgia 30335

SUBJECT: Central and Southern Florida Project, Modified
Water Deliveries to Everglades National Park, Florida, 8.5
Square Mile Area, General Reevaluation Report and Final
Supplemental Environmental Impact Statement

1. Five copies of the subject report have been forwarded to you under separate cover for your review and approval.
2. **Project Location.** The 8.5 Square Mile Area (SMA) is an inhabited area in South Miami-Dade County located approximately 6.6 miles south of Tamiami Trail (U.S. 41). It is bounded on the west by Everglades National Park (ENP), and separated from the more intensively developed urban lands to the east by the L-31N flood protection levee and borrow canal. In 1992, a flood mitigation plan was authorized for the 8.5 SMA as part of the Modified Water Deliveries to ENP (MWD) Project. Since 1992, several of the other features of the MWD Project have been constructed; however, the full implementation of MWD Project cannot occur until flood mitigation is provided to the 8.5 SMA.
3. **Federal Objective.** The Federal objective of this study is the same as for the 1992 General Design Memorandum (GDM) - restore hydropatterns into North East Shark River Slough to the extent practicable while mitigating for adverse impacts to the 8.5 SMA. Consistent with this objective, the Recommended Plan must be cost-effective and maximize ecosystem benefits to the extent practicable. Because a technical solution was approved and authorized by the 1992 GDM (Alternative 1), it became the baseline comparison for evaluation of the other eight alternatives and two variations of an alternative. The need to reevaluate this plan can be attributed to enhanced modeling capabilities and an expanded scientific understanding of the ecosystem function and structure that was not available during the

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preparation of the 1992 GDM. Selection of the Recommended Plan is based on the criteria provided in the Principles and Guidelines (ER 1105-2-100) in two parts: The Economic and Environmental Principles for Water and Related Land Resources Implementation Studies and The Economic and Environmental Guidelines for Water and Related Land Resources Implementation Studies.

4. **Recommended Plan.** After carefully weighing all project data, benefits, and potential impacts, Alternative 6D (with certain conditions as described in the GRR) provides a significant increase in environmental benefits over the currently authorized plan at a reasonable increase in cost and minimal social impact. It was therefore selected as the Recommended Plan to be implemented in lieu of the currently authorized plan for the 8.5 SMA. It is consistent with the Federal objectives and is the National Ecosystem Restoration (NER) plan for this project. It is also the plan recommended by the local sponsor, the South Florida Water Management District (SFWMD), for adoption by the Federal Government as the Federal project for the 8.5 SMA.

The Recommended Plan consists of perimeter and interior levees as well as a seepage canal that would be constructed as shown on Enclosure 1. The location of the perimeter levee would be generally east of the Phase 1 - Save Our Rivers (SOR) boundary line. The perimeter levee on the western boundary of the Recommended Plan ranges from approximately 500 to 5,500 feet east of the westernmost boundary of the 8.5 SMA (the authorized levee alignment), depending on the location along the boundary. To implement this plan, a total of 2,335 acres would be purchased fee simple (of which 663 acres have already been acquired under

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the authorized plan acquisition), and flowage easements would be required for 546 acres. The seepage canal system and interior levees would run along 205th Avenue north from 168th Street to 132nd Street, then east along 132nd Street to the L-31N canal. The seepage collection canal is designed to maintain the groundwater levels within the area interior of the outer levee at the same levels as existed prior to the implementation of the MWD Project. Two interior levees, one on either side of the seepage canal, would be positioned to prevent surface water from directly entering the seepage canal. The pumping structure (S-357), located at the southern terminus of the seepage canal, would discharge seepage water south into a treatment area in the C-111 Project area.

5. Recommended Plan Implementation.

a. Considerations for Flowage Easement Area

The Real Estate Appendix published in the Final General Reevaluation Report (GRR) and Final Supplemental Environmental Impact Statement (SEIS) was based on available and known information. After the Final GRR/SEIS was published the Corps started receiving calls from landowners in the 8.5 SMA inquiring whether their properties were within the acquisition area of Alternative 6D. Some of these inquiries were from landowners located within the 546 acres identified for acquisition of flowage easements. In addition, comments were received regarding how the people in the flowage easement area will be treated. It was established through this dialogue, there are approximately 26 fixed residential structures and approximately 14 mobile homes (or approximately 40 improved residential tracts) within the flowage easement area.

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As a normal part of the acquisition and appraisal process (especially relating to flowage easement) often more information is necessary to determine the "before project" value and the "after project" value and determination of damages, if any, on a given tract. In addition, this additional information and determination is consistent with and provided for in the Recommended Plan for further refinement of Alternative 6D. For these 40 tracts, there are two primary areas where further information is needed to determine damages and to assess with precision whether a fee acquisition would be purchased instead of a flowage easement:

- 1) Under the current Corps policy (Policy Guidance Letter No. 32, Use of Corps Reservoir Flowage Easement Lands), approval for use of our standard flowage easements to allow for human habitation rests with the ASA(CW). The policy generally places a restriction on human habitation below the flood control or navigation pool elevation. For this project an elevation of 9.5 feet, NGVD has been determined by the Corps to be the level for which mitigation is required and below which no human habitation would be allowed. The first floor elevation of structures needs to be determined to identify the tracts below 9.5 feet.

- 2) There are State and local health codes governing septic systems. The standards for septic systems include minimum bottom elevations for drain fields and setback requirements from water courses.

A survey will be completed early in the acquisition process to determine the first floor elevation of structures and bottom elevation of septic drain fields in relation to water tables. Information will also be gathered to determine if minimum septic drain field setbacks from water courses can be met in "after project" condition. Based upon results from

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the survey and information from the appraisal, a determination will be made on a tract-by-tract basis whether State and local health standards can be met or whether there are incurable project damages. If there are incurable damages, the offer would be made for fee acquisition. It is unknown how many of the 40 tracts would require fee acquisition instead of a flowage easement. This determination could increase both acquisition and relocation costs. It should be noted that if the structures are consistent with the zoning ordinance, most structures should be above 9.5 feet, NGVD and thus not affected. The survey will provide the necessary information to make this determination.

For those parcels where the first floor elevations of residential structures are below 9.5 feet , NGVD and/or where the bottom elevation of septic drain fields, is below the minimum State /local codes, it is anticipated there would be a fee acquisition instead of a flowage easement. If a landowner whose structures are below 9.5 feet, NGVD desires to remain, a determination would be made whether the residential structure and septic system could be raised in place and located so as to meet setback and elevation requirements of State and local codes. If codes could be met, a provision would be added to the easement allowing them to have structures and septic systems raised by a specified date, after which time the government would have the right to remove them.

We request approval for use of the standard flowage easement to allow human habitation for structures currently above 9.5 feet, NGVD, or raised above 9.5 feet, provided that the septic systems could be raised and/or relocated to meet the State and local health codes for elevations above water tables and setbacks from water courses.

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b. Transfer of Title and Items of Local Cooperation

The Items of Local Cooperation identified in Section 9.6 of the GRR, and in the Recommendations in Section 11, stated that "SFWMD will convey for fair market value consideration and reasonable incidental costs of acquisition of all lands, easements, and rights-of-way owned by them together with all maps, appraisals and other acquisition materials that may be of use to the government."

Since publication of the Final GRR/SEIS the Corps has reconsidered the logic of having the property currently owned by SFWMD conveyed in fee to the United States then issuing an out grant to SFWMD for operation and maintenance. While the acquisition of lands remains a federal responsibility for this project, having the United States retain title to the lands is unnecessary for this entire project and is inconsistent with how title to lands is held for the Central and Southern Florida project and in other projects where local sponsors are responsible for operation and maintenance. It is recommended that the Items of Local Cooperation and Recommendations be changed to read:

"The Non-Federal Sponsor shall retain title to all lands, easements and rights-of-way needed for the Recommended Plan for the life of the project. The Government shall transfer by quitclaim deed all lands, easements and rights-of-way it acquires for the Recommended Plan to the Non-Federal Sponsor. The Non-Federal Sponsor shall certify to the Government the availability of all lands, easements and rights-of-way it has already acquired (or

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already owns) which lie within the acquisition area for the Recommended Plan and the Government shall compensate the Non-Federal Sponsor for those lands, easements and rights-of-way it has acquired for the Recommended Plan by the payment of fair market value consideration and reasonable incidental costs of acquisition. The Non-Federal Sponsor shall provide all maps, appraisals, and other acquisition materials that may be of use to the Government."

The SFWMD has concurred in this revision and a letter of support is attached as Enclosure 2.

6. **Public Coordination.** As part of the preparation of the GRR/SEIS, affected stakeholders have been afforded several opportunities for public input. Public involvement included numerous public forums to allow for residents, cooperating agencies, and affected stakeholders to present their issues and concerns. Meetings held to specifically discuss this project included agency and stakeholder scoping meetings, technical team meetings, and formal public meetings and workshops. Input from the public played an important role in the decision making process. Written comments were received during the formal 45-day comment period following the completion of the Draft GRR/SEIS and the formal 30-day comment period following the completion of the Final GRR/SEIS. The written comments received during the 30 day review and responses are found in Enclosure 3.

7. **NEPA.** The final SEIS was published in the Federal Register on 4 August 2000. A 30 day comment period has

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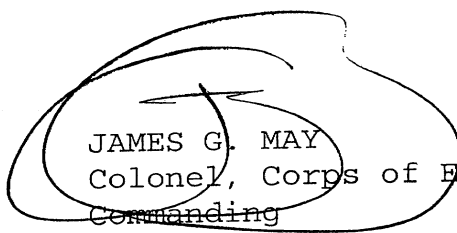
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been completed. A draft Record of Decision is contained in
Enclosure 4 for your review, approval and execution.

8. **Implementation.** The Jacksonville District has provided
a schedule to meet the December 2003 completion date for
the construction of the 8.5 SMA mitigation features. This
completion date assumes the best case scenarios for
critical enablers such as funding, water quality
certification requirements, endangered species issues,
etc., in order to meet the desired schedule.

9. **Recommendation.** I recommend that the selected plan for
the 8.5 SMA as described in the GRR with the above
mentioned clarifications be approved as the Federal plan
with immediate implementation by the Federal Government.

Encls



JAMES G. MAY
Colonel, Corps of Engineers
Commanding



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045 • TDD (561) 697-2574
Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680 • www.sfwmd.gov

PRO EVR

September 20, 2000

Colonel James G. May
District Engineer
U.S. Army Corps of Engineers
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, FL 32232-0019

Dear Colonel May:

**SUBJECT: Ownership of Federal Lands Acquired for the 8.5 Square Mile Area
(SMA) Project**

The purpose of this letter is to offer the South Florida Water Management District's (SFWMD) suggestion for revising the ownership arrangement of lands acquired by the federal government in the 8.5 SMA pursuant to the 8.5 Square Mile Area (SMA) General Reevaluation Report/Supplemental Environmental Impact Statement (SEIS). Currently the SEIS recommends that the federal government retain title to all lands acquired west of the perimeter levee and convey a lease grant of these lands to the SFWMD for long term management. This recommendation differs from all other Corps projects with the SFWMD where the Corps conveys title to the SFWMD, the local sponsor, at the project completion. Therefore, the SFWMD recommends that the lands acquired in the 8.5 SMA Project also be conveyed to the SFWMD after project completion. This would sustain the consistent working relationship with the Corps and the SFWMD that has been followed throughout all of our previous arrangements.

Through this letter, the SFWMD is hopeful that the Corps will amend the previously described federal/local sponsor responsibilities outlined in the recommended plan dated July 2000.

We look forward to a successful "Record of Decision" and swift implementation of the Project.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank R. Finch".

Frank R. Finch, P.E.
Executive Director

FRF/jj

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Frank R. Finch, P.E., Executive Director
James E. Blount, Chief of Staff

Colonel James G. May

September 20, 2000

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bc: Terrie Bates - 4110
John Fumero - 1410
Patricia Strayer - 4410
Dewey Worth - 4440
Lourdes Elias - 4110



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

September 5, 2000

Colonel James G. May
District Engineer
Jacksonville District, Corps of Engineers
P.O. Box 4970
Jacksonville, FL 32232

ATTN: Mr. Elmar Kurzbach
Planning Division

SUBJ: Final Supplement to the Final Environmental Impact Statement with Addendum A (SEIS) and General Reevaluation Report (GRR) for Modified Water Deliveries (MWD) to Everglades National Park, 8.5 Square Mile Area (SMA), Miami-Dade County, Florida; CEQ No. 000102

Dear Colonel May:

Pursuant to Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act (NEPA), the U.S. Environmental Protection Agency (EPA), Region 4 has continued its review of the above referenced project. The goal of this project is to mitigate the projected increases in flooding within the 8.5 Square Mile Area (8.5 SMA) which would result from the future plans to augment water deliveries to the Everglades National Park (ENP). As noted in our previous comments, flooding within the 8.5 SMA is a function of multiple, interrelated factors, all of which are currently being re-examined as part of this EIS process.

In our May 30, 2000 comments on the draft GRR/SEIS, EPA rated the various alternatives LO (Alternative 5, total buyout), EC-2 (Alternatives 4 and 6B), and EO-2 (Alternatives 8A, 6D, 6C, 7, 2B, 9 and 3). EPA has received the Corps of Engineer's (COE) July 27, 2000 response to EPA's comments and recommendations on the draft SEIS. We have also received the Final GRR and SEIS. In the July 27th letter it was noted that the Final GRR and SEIS would identify Alternative 6D, suitably modified, as the recommended plan. This was the same plan that was also selected by the local sponsor. Since EPA had rated this alternative as EO-2, the COE has modified the final SEIS to provide additional information to address the concerns we had raised.

In its comments on the draft SEIS, EPA supported Alternative 5 (*Total Buy-Out Plan*) as the best means of balancing water quality/quantity goals for this and the much larger Central and Southern Florida (C&SF) Project. EPA remains convinced that Alternative 5 would provide the most environmental benefits to the Everglades Ecosystem. However, after review of the additional information referenced in your letter and in the revised final GRR/SEIS, and the further commitments made by the cooperating agencies concerning the modifications to Alternative 6D, the EPA is prepared to withdraw its objections.

Alternative 6D (modified) was identified by the COE to reasonably maximize ecosystem restoration benefits as compared to the costs and social impacts. It provides structural flood protection/mitigation via its levee system and protects a relatively large subset of the subject area. The project now includes a proposed water treatment area south of the 8.5 SMA that would cover approximately 206 acres and is being designed to allow the waters to meet the 10 ppb default total phosphorus numeric criterion identified in the Everglades Forever Act. Interior low levees or berms would be constructed to prevent surface stormwater from within the 8.5 SMA from reaching the seepage canal. Under this modified plan, the properties of the 35 homeowners located west of the new levee would be purchased during the construction of the project. A willing seller program would continue within the balance of the 8.5 SMA to reduce further the potential for adverse system impacts.

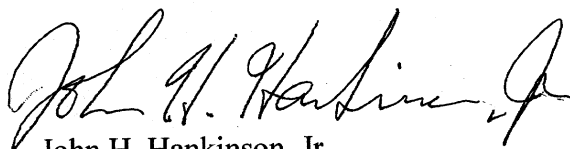
Any future development within the 8.5 SMA will be immediately related to the degree of flood protection provided by a selected alternative. Hence, EPA agrees with the local sponsor and others, that steps should be taken to ensure that the status quo regarding flood mitigation is maintained after the structural measures associated with Alternative 6D are installed. This proscription is critical since additional growth within the 8.5 SMA will result in more stormwater runoff and water quality problems. Similarly, any stormwater management system developed to service the needs of existing residents of the 8.5 SMA must not discharge into the Everglades.

EPA also agrees with the additional commitments to restore the area within the buffer zone west of the levee, and the incorporation of fish and wildlife enhancement features into the project features. EPA believes that as the land acquisition and flood mitigation project is being developed, steps should be taken to allow for incremental increases in water flows to the ENP and not wait for the project to be fully completed. We believe this could be done and not impact the 35 homesteads that are west of the proposed levee.

One final point, since this project will drain into the C-111 Project area, these two projects should coordinated to ensure that maximum benefits will be derived and the projects will not negatively impact each other.

Thank you for the opportunity to comment on this action. If we can be of further assistance or if a meeting is desirable to discuss this or related projects, Richard Harvey (561-615-5292) and Heinz Mueller (404-562-9611) will serve as initial points of contact.

Sincerely,

A handwritten signature in dark ink, appearing to read "John H. Hankinson, Jr.", with a stylized flourish at the end.

John H. Hankinson, Jr.
Regional Administrator



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Office of the State Supervisor - Ecological Services

P.O. Box 2676

Vero Beach, FL 32961-2676

(561) 778-0896

August 25, 2000

Colonel James G. May
District Engineer
U.S. Army Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

Log No: 4-1-00-I-204
Project: Modified Water Deliveries to
Everglades National Park: Eight
and One-half Square Mile Area
County: Miami-Dade

Dear Colonel May:

This is in response to your Biological Assessment (BA) dated July 18, 2000, and follow-up letter dated August 11, 2000, concerning the effects of implementing the Eight and One-half Square Mile Area (8.5 SMA) project on the endangered Florida panther (*Puma concolor coryi*), endangered wood stork (*Mycteria americana*), endangered snail kite (*Rostrhamus sociabilis plumbeus*), endangered Cape Sable seaside sparrow (*Ammodramus maritimus mirabilis*), and the threatened eastern indigo snake (*Drymarchon corais couperi*) in accordance with section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq*).

The BA concluded that implementation of the 8.5 SMA project is not likely to adversely affect federally listed species. Accordingly, the Corps of Engineers (Corps) has requested the concurrence of the Fish and Wildlife Service (Service) regarding that determination.

PROJECT DESCRIPTION

The 8.5 SMA project is an integral feature of the Modified Water Deliveries (MWD) to Everglades National Park (ENP) project. The primary objective of this Federal action is to provide restorative flows and hydropattern to Northeast Shark River Slough (NESRS). Upon implementation of MWD as authorized, the net increase in water introduced to NESRS would potentially raise elevations of ground water in the adjacent 8.5 SMA. As a result, the volume of storage of ground water available to retain runoff from rainfall would be reduced. This would raise the potential for increases in flooding. Consequently, the ENP Protection and Expansion Act (the MWD authorization) authorized a system to provide flood mitigation to the area.

Colonel James G. May

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To provide flood mitigation to the residents and landowners in the 8.5 SMA, the Corps proposes to construct a levee and seepage canal to protect approximately 4,500 acres of the eastern portion of the area. Lands west and north of the levee and east and south of the ENP boundary (approximately 2,000 acres) are to be acquired and managed by the non-Federal sponsor, the South Florida Water Management District (SFWMD). These lands are to be restored to support a natural and productive ecosystem and managed as a hydrologic buffer between ENP and L-31 North.

The eastern portion of the 8.5 SMA would be provided flood mitigation through the construction of a flood protection levee and drainage system. A major perimeter levee would be constructed along 197th, 205th, 209th, and 213th Avenues down to 168th Street. A seepage canal, which would be designed to collect ground water underflow, would follow 205th Avenue north from 168th Street to 132nd Street. A minor levee would be constructed east of the seepage canal to prevent surface water from running into the seepage canal and mixing with seepage water.

A single pumping structure (S-357) would be constructed at the southern terminus of the levee/canal system. This station would convey seepage water from 168th Street south into a 400-acre retention area in the northern extreme of the C-111 Project.

WOOD STORK, SNAIL KITE and EASTERN INDIGO SNAKE

Based on information provided in the BA, assimilated throughout the preparation of the General Reevaluation Report and Supplemental Environmental Impact Statement, and information contained in the Final Fish and Wildlife Coordination Act report for the 8.5 SMA project, the Service concurs with your determination of not likely to adversely affect for the snail kite and wood stork. We also concur with your determination of not likely to adversely affect for the eastern indigo snake based on the inclusion of the Standard Protection Measures for the Eastern Indigo Snake, as described in the BA. There is no designated critical habitat for the wood stork and eastern indigo snake. The action area lies outside designated critical habitat for the snail kite; therefore, designated critical habitat for the snail kite will not be adversely modified.

CAPE SABLE SEASIDE SPARROW AND FLORIDA PANTHER

As part of our on-going informal section 7 consultation, your August 11, 2000, letter recognizes that there is the potential for adverse impacts on the Cape Sable seaside sparrow and Florida panther. The Service concurs that implementing the 8.5 SMA project has the potential to adversely impact these two endangered species. However, before the Service can fully assess the effects of implementing the 8.5 SMA project on the Cape Sable seaside sparrow and Florida

panther, the Service requests additional information, as described below. We have discussed these additional informational needs with staff at the Corps and staff at ENP.

ADDITIONAL INFORMATION

Cape Sable Seaside Sparrow

- (1) Model Conditions: MODBRANCH model output with D13R boundary conditions with no synthetic storm event (1-in-10 year flood);
- (2) Hydroperiod: Average annual discontinuous hydroperiod for all individual indicator cells associated with Subpopulations "C" and "F" for dry year, wet year and average year conditions compared to 95 Base conditions (Test 7, Phase 1);
- (3) Nesting Habitat: Number of consecutive days without surface water for all individual indicator cells associated with Subpopulations "C" and "F", from week 7 thru 33, for dry year, wet year, and average year conditions, including a calculation of the number of acres exceeding 80 consecutive days without surface water and the number of acres not exceeding 80 consecutive days without surface water compared to 95 Base conditions (Test 7, Phase 1) ;
- (4) Spatial Extent of Hydroperiods: Map depicting the spatial extent of discontinuous hydroperiods for dry, wet, and average year conditions for all individual indicator cells for Subpopulations "C" and "F" compared to 95 Base conditions (Test 7, Phase 1) .
- (5) Spatial Extent of Nesting Habitat: Map depicting the spatial extent of the area within Subpopulations "C" and "F" with the number of consecutive days without surface water for all individual indicator cells, from week 7 thru 33, for dry year, wet year, and average year conditions, compared to 95 Base conditions (Test 7, Phase 1).

Florida Panther

- (1) Project Design and Construction: Provide an estimate of the acreage and location of habitats to be impacted by the construction of canals, levees, staging areas, pump station, and seepage retention area. This acreage estimate should include construction and use of access roads, staging areas (*i.e.*, equipment staging areas and temporary fill deposition areas). Provide a map depicting all project features overlain on an aerial photograph dated 1998 or more recent.

Colonel James G. May

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(2) Blasting Plan: Provide a blasting plan outlining all blasting activities anticipated during the construction phase of project implementation. This plan should include, but not be limited to:

- (a) blasting intensity (*i.e.*, decibel levels) and radius of noise effects;
- (b) duration of blasting activities, specifying the time of day blasting is anticipated;
- (c) proposed panther monitoring activities within the affected blasting radius.

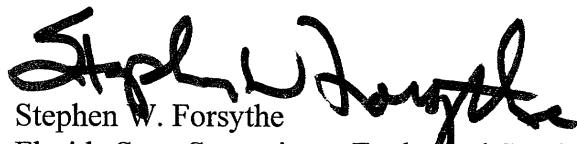
(3) Habitat Restoration Plan: Provide specific information regarding acreage to be affected by restoration activities to be performed on lands west of the perimeter levee up to the boundary of the ENP expansion lands. This information should include all roads and house pads to be removed and graded, removal of septic tanks, exotic vegetation removal and control activities, removal of solid waste, and plans to re-vegetate the restored areas with native vegetation, particularly vegetation providing canopied habitat (*i.e.*, trees and shrubs).

(4) Public Use and Access: Provide information regarding projected public use and access within the scope of the project, particularly along the perimeter levee.

Finally, should our agencies enter into formal consultation on this federal action, we would urge the Corps to invite the Bureau of Indian Affairs and the Miccosukee Tribe of Indians of Florida to participate in formal consultation regarding this project in accordance with Department of the Interior Secretarial Order No. 3206.

If you have any questions regarding this letter, please contact Jim Boggs of this office at (561) 778-0896, extension 18. Thank you for your cooperation in the effort to protect endangered and threatened species.

Sincerely yours,


Stephen W. Forsythe
Florida State Supervisor - Ecological Services

cc:

FWC, Vero Beach, Florida

SFWMD, West Palm Beach, Florida

Miccosukee Tribe of Indians of Florida, Miami, Florida

Project Leader, South Florida Field Office, Service, Vero Beach, Florida



Miccosukee Tribe of Indians of Florida

♦ Business Council Members
Billy Cypress, Chairman

Jasper Nelson, Ass't. Chairman
Max Billie, Treasurer

Andrew Bert Sr., Secretary
Jerry Cypress, Lawmaker

August 31, 2000

Colonel James G. May
District Commander
USACE District, Jacksonville
PO Box 4970
Jacksonville, FL 32232

Dear Colonel May:

This letter constitutes comments by the Miccosukee Tribe of Indians of Florida on the Supplemental Environmental Impact Statement (SEIS) and General Reevaluation Report (GRR) for the 8.5 Square Mile Area (SMA) component of the Modified Water Deliveries (MWD) project dated July 27, 2000. More detailed Tribal comments have been provided in another letter.

The Tribe has and continues to support the 1992 Corps plan as the best alternative for accomplishing the MWD project in accordance with the directive of Congress (PL101-229). Per enclosure 1, I attempted to convince your predecessor, Colonel Joe Miller, that alternative 6D, the recommendation of the South Florida Water Management District (SFWMD), was fraught with challenges that would make it another in a long line of "dead-end excursions." Obviously, I did not convince him ... he abandoned the congressionally approved Corps plan and endorsed 6D without establishing the immutable conditions that the Tribe deems essential for it having any hope of success. But fortunately you still have an opportunity to put the MWD project back on a path that will work before a Record of Decision (ROD) is final.

Before I elaborate on the reasons for 6D's eventual demise, I am providing you with my perspective on why such a failure would be devastating to South Florida ... please review enclosure 2. Bottom line: The damage being caused by not completing the MWD project is immense for most all of the Everglades ecosystem ... much of the damage is irreversible ... not only are natural areas being damaged, but people are being put in harms way by increased jeopardy of flooding, along with suffering significant adverse economic impacts.

Now why is 6D a "dead-end excursion?" ... the two major reasons:

1) **Authority** – PL 101-229 is crystal clear with regard to the 8.5 SMA, i.e. "The Secretary of the Army is authorized and directed to construct a flood protection system for that portion of presently developed land within such area." To choose 6D, Colonel Miller must have interpreted these words to authorize the Corps to forcibly remove people and their homes from the area. I personally find such an interpretation implausible. And I am confident that, if the final Corps interpretation of the statute (PL101-229) is that condemnation of homes and land is authorized, this interpretation will be found to be contrary to the plain meaning of the words contained therein, and, in particular, in violation of ignoring the mandatory directive, i.e. "construct a flood protection project for that portion of presently developed land within such area." I strongly

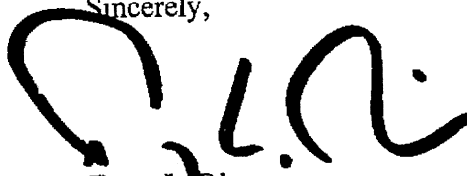
recommend that you personally reinterpret the words of the statute ... upholding the letter of the law is in your hands, as are many peoples' lives. As a matter of fact, I've even heard that you have a fairly recent opinion from Corps Headquarters that opines my interpretation. In summary, I unequivocally believe that your Alternative 6D violates the law and the clear directive of Congress, and, in the end, will not withstand the challenges that are certain to come. Ergo, you are embarking on a "dead-end excursion."

2) **Cost Effectiveness** – 6D will require at least \$62 million more in federal funds than the Corps 1992 plan, and the Tribe strongly believes that \$62 million is a gross underestimate and is certain to grow substantially once all costs are included. No Corps congressionally approved plan can exceed a cost increase of 20 percent without going back to Congress ... the "Section 902" provision. In this case you are exceeding the cost of the 1992 plan by at least 141 to 187 percent, depending on which report numbers you use. Even though this project is not an official Corps civil works project, I believe a reasonable and prudent person would conclude that Congress expects normal Corps standards to be applied in order to ensure that taxpayer money is being spent wisely. In any case, Congress is not going to look favorably on such a cost overrun without very solid justification ... and you simply don't have it. Even more, at a time when Congress is relinquishing insistence on the time-tested and revered "benefit-cost ratio" in favor of the more nebulous, but logical, "cost effectiveness" criterion for justifying environmental projects, in my judgment, it would be very unwise to give any indication of abuse of congressional trust ... such a perception seems unavoidable in this case. Huge increases in cost without justification will again spell "dead-end excursion."

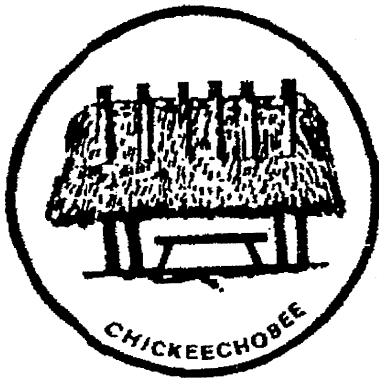
I understand that 6D was supposed to be a "political compromise" ... but even a "political compromise" must be implementable ... and certainly meet the requirements of the law. The MWD project should have been finished by 1997 ... years of delay are causing significant damage of which much is irreversible ... a 2003 completion has been mandated by the Cape Sable Seaside Sparrow Biological Opinion and upheld by the Justice Department, and the Corps says it can and will meet it ... the only way you can conceivably accomplish this project by 2003 is to immediately begin the implementation of the 1992 Corps plan and "crashing" the schedule. This truth is so evident that I honestly believe that it is disingenuous if the Corps professes otherwise ... and you're the one on the "hot seat," as we'll know if the Corps meets the 2003 deadline before you complete your command.

The MWD project is a tough one and one that I believe will be significant in defining your command. Excuses for not completing the project are running out ... the patience of South Floridians is running out even faster. As I see it, your duty is to do all within your power to complete Mod Waters by 2003 ... not succumb to a never-ending bureaucracy of stagnation that is destroying the Everglades ecosystem, along with the land and culture of the Miccosukee Tribe. I implore you to study and understand the MWD project, be bold and take decisive action, and don't stop until the mission is accomplished ... MWD operational by 2003! *Essayons!*

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'T. L. Rice'.

Terry L. Rice
Colonel (R), PhD, PE



Miccosukee Tribe of Indians of Florida

Business Council Members
Billy Cypress, Chairman

Jasper Nelson, Ass't. Chairman
Max Billie, Treasurer

June 28, 2000

Andrew Bert Sr., Secretary
Jerry Cypress, Lawmaker

Colonel Joe R. Miller
District Commander
USACE District, Jacksonville
PO Box 4970
Jacksonville, FL 32232

Dear Colonel Miller:

The Modified Water Deliveries (MWD) project, as authorized by PL 101-229, the Everglades Protection and Expansion Act of 1989, should have been completed by 1997. Damage caused by the MWD project not having been completed is extensive throughout South Florida, to include on Tribal land, and much of it is irreversible. The Miccosukee Tribe of Indians of Florida will "hold the Corps' feet to the fire" to ensure that the MWD project is completed by December 31, 2003 ... the Corps scheduled completion date and the date mandated by the Reasonable and Prudent Alternative in the February 19, 1999 Biological Opinion. **It is still the Tribe's conviction that the best way, economically, environmentally, legally, and socially, for the Corps to meet its obligations under PL 101-229 is your 1992 plan/concept as approved by Congress.**

With regard to the 8.5 Square Mile Area (SMA) component of the MWD project, on June 15, 2000 the Governing Board of the South Florida Water Management District (SFWMD), after deciding not to fund a locally preferred option, merely recommended "alternative 6D" to the Corps as the Board's preference. Be advised that, as you evaluate the SFWMD recommendation during your General Reevaluation Review (GRR)/Supplemental Environmental Impact Statement (SEIS) preparation, **the Tribe has serious concerns regarding the implementability of 6D:**

- 1) **Authority** – how can you stay within the bounds of the law with 6D?: PL101-229 is crystal clear with regard to the 8.5 SMA, i.e., "The Secretary of the Army is authorized and directed to construct a flood protection system for that portion of presently developed land within such area."
- 2) **Cost Effectiveness** – how can you justify 6D as "cost effective"? 6D will require at least \$62 million more in federal funds than the 1992 Corps plan ... the Tribe strongly believes that \$62 million is an underestimate and is certain to grow substantially as all costs are included.

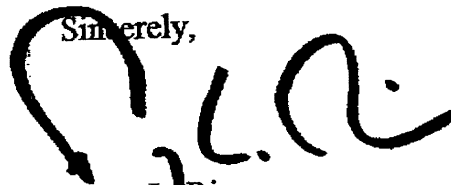
The Tribe still believes that the fastest, cheapest, and most humane way to abide by the law with regard to the 8.5 SMA is the 1992 Corps plan/concept. The Tribe strongly believes that to have any hope of 6D being implementable, the following 6 immutables must be unequivocally established and heeded by the Corps:

- 1) 6D Plan must clearly demonstrate that construction will be completed and operation started by December 31, 2003;
- 2) 6D Plan must unequivocally ensure absolutely no condemnation of homes ... also, it must ensure no condemnation of land, unless it is the land that falls beneath the footprint of the protective construction project, i.e. canal, levee, and pump;
- 3) 6D Plan must provide property owners to the west of the 6D levee with choices that ensure they neither lose value of property/business nor quality of life. At a minimum, property owners must be permitted to choose among the 3 following options: a) continue to live in the area with roads, houses, and area around houses raised to the extent necessary to provide the protection directed by PL 101-229 at 100 percent government expense; b) be totally relocated to the 8.5 SMA east of the 6D levee at 100 percent government expense; or c) sell property for a price that permits total relocation outside the 8.5 SMA;
- 4) 6D Plan must be endorsed by DOI in writing, to include an explicit commitment to provide the increased funding, prior to the Corps signing a Record of Decision (ROD);
- 5) 6D Plan ROD must be signed by September 30, 2000;
- 6) and 6D Plan must stipulate that, if any one of the above 5 immutables is not met, then the Corps must immediately begin final design and construction of the 1992 Corps plan/concept.

The Tribe is ready to work with all parties involved to ensure the MWD project is accomplished no later than December 31, 2003. Please consult with the Tribe soon and often as the expeditious completion of the Modified Water Deliveries project is crucial to the survival of the Miccosukee culture and over half of the remaining freshwater Everglades.

No more dead-end excursions ... condemnation equals stagnation! Tribe's bottom line: "Mod Waters by 2003 ... by the law ... with no condemnation!"

Sincerely,



Terry L. Rice
Colonel (R), PhD, PE

The Modified Water Deliveries Project (Mod Waters)
Although Vital to Nature and People in the Greater Everglades Ecosystem,
Mod Waters Has Been Stalled by Federal Bureaucracy for Over a Decade
with Little Hope for Progress in the Future

August 30, 2000

Historically, the Everglades was hydrologically charged by two primary sources: 1) water flowing over the southern rim of Lake Okeechobee and 2) direct rainfall. Water that did not evaporate would slowly wind its way south across the freshwater Everglades, eventually through Shark River Slough before entering the western portion of Florida Bay via the 10,000 Island area. It was only during times of very high rainfall, that some of this flow was diverted by discharges over the coastal ridge via the transverse glades into east coast estuaries and through Taylor Slough into eastern Florida Bay. But Shark River Slough was the primary outlet to the sea for Everglades water.

As Broward and Dade Counties were developed, Shark River Slough became more and more restricted ... its effective width and, thus, flow capacity were greatly reduced. Constrictions first came from the construction of the east coast levee by the Corps of Engineers, which effectively reduced the slough's width by one third. This was followed by the platting and sale of the East Everglades in Dade County, which took another third and the very heart of the slough away. What had been a broad expanse of flow that permitted the Everglades to historically discharge the preponderance of its water to Florida Bay had been reduced to one third of its normal width, and flow through the remaining one third was further restricted by Corps control structures, primarily S-12 A, B, C, and D.

Given greatly reduced natural flows to the south, where does the water go? Over the years, man's incursions into the Everglades ecosystem has altered the natural hydrology radically and in a manner that compensates for the reduction of flow through Shark River Slough. The four major alterations that allowed Shark River Slough to be severely restricted without exacerbating upstream flooding were: 1) connecting of Lake Okeechobee to the Caloosahatchee River, which lowered Lake Okeechobee and reduced its contribution to Everglades flow considerably; 2) digging of the St. Lucie, Palm Beach, Hillsboro, North New River, and Miami Canals, which are used to quickly shunt Everglades water to the east coast estuaries; 3) diking of Lake Okeechobee, which permits higher water levels and greater storage; and 4) constructing the Water Conservation Areas, which act as reservoirs to store water. In essence, man has taken away the Everglades' natural outlet to the sea after compensating upstream by increasing storage and providing new outlets to tide, both of which have proven severely damaging to the environment.

Decades ago, it became obvious to the scientists associated with Everglades National Park (ENP) that the Park could never function as it had historically unless natural flows to Shark River Slough were returned. Water is the engine that drives the Everglades ecosystem and the water had been dramatically altered. Efforts began in earnest in the

1970's. In 1984 Congress passed Experimental Water Deliveries to ENP legislation, which permitted interim modifications primarily to operations until a permanent solution could be implemented. Finally, in 1989, Congress passed PL101-229, the Everglades National Park Protection and Expansion Act, which authorized the Corps and the Department of Interior to implement the permanent solution primarily by constructing the Mod Waters project. In 1992, the Corps submitted a plan to Congress, which was supported by all interests and approved. In 1994, the Corps ratified a contract to construct the project with the South Florida Water Management District, the local sponsor ... and this is when meaningful progress ceased for Mod Waters ... six years plus of limbo have ensued while the entire Greater Everglades ecosystem suffers.

Then in 1995, a second year of well above average rainfall that has lasted almost to the present, brought a Fish and Wildlife Service jeopardy opinion for the Cape Sable Seaside Sparrow (CSSS). Flows even from the S-12 structures on the western edge of Shark River Slough became more and more restricted until in the winter of 1997, they were completely closed. What had been severe restrictions in natural Everglade flows became almost total blockage. And this blockage, along with the resulting damage to the entire ecosystem, is programmed to continue until Mod Waters is completed.

This blockage exacerbated an already bad situation. The major purpose of the Comprehensive Everglades Restoration Plan (CERP) is to restore natural flows and levels throughout the system. At a time when we are asking Congress to provide authorization for \$7.8 billion to reduce flows to estuaries, while lowering Lake Okeechobee and the Water Conservation Areas, federal agencies have effectively blocked completion of the Mod Waters project and the major, natural outlet to the sea for Everglades water. Completion of the \$150 million Mod Waters project is an essential condition precedent for CERP to work and is assumed to be completed by CERP, but, in reality, it remains stuck in government bureaucracy without much hope of moving forward.

Among the many adverse impacts due to the non-completion of Mod Waters are severely stressed wildlife, to include several endangered species and tree islands in the Water Conservation Areas; higher doses of freshwater than normal to almost all estuaries, which has sent tourist packing and marine life to its death; a Lake Okeechobee littoral zone that is dying and levee that is threatened; significant adverse impacts to life in the Big Cypress; and a lack of freshwater flows to Florida bay, which has caused algae blooms and sea grass die-offs that have significantly hurt the fishing, recreation, and tourism industries. On top of this, urban and agricultural areas are being placed in harms way due to increased jeopardy of flooding.

If the Mod Waters project had been completed as Congress expected it would be when it passed PL101-229 in 1989, all of these adverse impacts would have been greatly reduced or eliminated. Mod Waters should have been completed in 1997 and now could be completed by 2003 if the Corps would act with a proper sense of urgency. But, in reality the Corps is now backing off its 1992, congressionally accepted plan in favor of, what portends to be, a "dead-end excursion" that will only continue to delay project completion while widespread damages continues throughout the Everglades ecosystem.

In summary:

- Mod Waters was authorized by Congress in 1989 to restore flows in Shark River Slough in Everglades National Park, which has been unnaturally dried out for decades.
- Far transcending benefits to Shark River Slough, the completion of Mod Waters is vital to the health of the entire ecosystem, to include Lake Okeechobee; Caloosahatchee, Indian River Lagoon, and many other estuaries; Water Conservation Areas; Big Cypress; and Florida Bay ... the cost of delay to these areas is immense.
- Without Mod Waters, agricultural and urban areas are being placed in harms way because of increased jeopardy of flooding due to lost capacity for storing flood waters.
- According to the Fish and Wildlife Service, many endangered species are being stressed by the failure to complete Mod Waters, to include the American Crocodile, Snail Kite, and Wood Stork the Cape Sable Seaside Sparrow has been declared in "jeopardy," along with Mod Waters completion as its savior with a 2003 deadline.
- The very culture of the Miccosukee Tribe of Indians of Florida is being threatened as unnaturally high waters are destroying tree islands and drowning wildlife in the Everglades ... the Tribe's home.
- A viable, congressionally approved plan to stop the damage has been in place since 1992 and should have been completed by 1997
- The Department of Interior has effectively blocked implementation of the 1992 plan by withholding funds from the Corps for what many judge as shortsighted, wrongheaded reasons.
- Although the Corps now says Mod Waters will be completed by 2003, its unofficial, de facto abandonment of the 1992 plan for a "political compromise" and "dead-end excursion," makes the 2003, or any date close to 2003, impossible.
- On top of all this, the Comprehensive Everglades Restoration Plan requires Mod Waters to be operational in order to work ... if government agencies cannot complete the \$150 million Mod Waters project in over a decade, how can tax payers ever trust them to effectively execute the \$7.8 billion CERP?
- Bottom line: The cost of delaying Mod Waters is immense ... much of the damage is irreversible ... it should have been completed years ago ... given its history, few have hope that it will ever be completed ... and it may never unless those who are being harmed join forces and demand that Mod Waters be completed ASAP.

How much unnecessary damage will we continue to accept when there is a viable solution at hand? If we don't demand accountability, the agencies entrusted with the restoration and preservation of the Everglades will, in the final analysis, be the ones who destroyed it ... along with unnecessarily harming people and the economy of South Florida. It is well past time that we all demand that the Modified Water Deliveries project be completed as soon as possible, but no later than December 31, 2003.



Miccosukee Tribe of Indians of Florida

Business Council Members
Billy Cypress, Chairman

Jasper Nelson, Ass't. Chairman
Max Billie, Treasurer

Andrew Bert Sr., Secretary
Jerry Cypress, Lawmaker

August 31, 2000

Colonel James May
U.S. Army Corps of Engineers,
Jacksonville District
400 West Bay Street
Jacksonville, FL 32232

Via Federal Express

Re: Comments and Objections on the Final GRR/SEIS on the 8.5 SMA

Dear Colonel May,

The Miccosukee Tribe of Indians hereby files our comments and objections to the Army Corps of Engineers (ACOE or Corps) Final Supplemental Environmental Impact Statement (Final SEIS) and General Reevaluation Report (Final GRR) for the 8.5 Square Mile Area Component of the Modified Water Deliveries (MWD) project. The Tribe also adopts herein the comments on the Draft SEIS/GRR dated May 30, 2000, and attached hereto; and the letters, documents, and fact sheets that were submitted to the Army Corps of Engineers and the South Florida Water Management District (SFWMD or District) at the numerous public meetings on this issues, as well as the testimony that was given on behalf of the Tribe by Colonel Terry Rice, Dr. Ron Jones, Steve Carney, Brad Walter, Jim Goldasich, Gene Duncan, Joette Lorion and Tribal attorneys Dexter Lehtinen and Dione Carroll.

LEGALLY INSUFFICIENT FINAL GRR/SEIS WILL FURTHER DELAY MWD PROJECT AND CAUSE CONTINUED EVERGLADES DESTRUCTION

The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. S. 4321 et seq. requires that an Environmental Impact Statement include all information which is relevant and essential to making a reasoned choice among alternatives and must provide a full and fair discussion of significant potential environmental impacts of the proposed actions. (40 C.F.R. 1502.22 and 40 C.F.R. 1506.1). Contrary to this, the legally insufficient Final General Reevaluation Report (GRR) and Final Supplemental Environmental Impact Statement (SEIS) on the 8.5 SMA component of the Modified Water Deliveries Project (MWD) grossly underestimates, and in some cases omits,

significant factors which are relevant to a reasoned decision. As previously stated in voluminous correspondence to the Corps, the Tribe's Everglades land in WCA-3A, and state-owned Everglades, continue to be irreparably damaged and the Miccosukee culture threatened because of the Corps and Department of Interior's (DOI) refusal to have implemented the Modified Water Deliveries (MWD) project by 1997, as Congress expected. The Final GRR/SEIS states that "the full implementation of the MWD project cannot occur until flood mitigation is provided to the 8.5 Square Mile Area. (Final GRR page 1). The Corps has known this since 1989 when the late Congressman Dante B. Fascell was instrumental in passing Public Law 101-229. Yet, apparently unfazed by their failure to complete a project that Congress directed in the manner that Congress directed, the Corps at the completion of an unnecessary, prejudicial, and delay provoking SEIS process, has decided to "rubber stamp" an unreasonable and unimplementable alternative that does not meet the statutory requirements of P.L. 101-229 (Section 4).

The unreasonable selection resulting from this legally insufficient SEIS process, and the refusal to carry out this law in the manner that Congress directed, will continue to cause irreparable damage to the Water Conservation Areas; Lake Okeechobee; the Indian River Lagoon and Caloosahatchee Estuaries; Florida Bay; and other natural areas. Additionally, urban and agricultural areas are under increased jeopardy of flooding, all because the Corps and DOI have not implemented the MWD project, and have now "rubber stamped" an unreasonable alternative that will result in further destruction and continue to put people in urban areas in harms way. The Corps' "rubber stamping" of a state entity's selection of an unimplementable alternative that resulted from a fundamentally flawed SEIS process will ensure that the decade of stagnation on MWD, which is now threatening the Comprehensive Everglades Restoration Plan (CERP), will continue well beyond the December 31, 2003 completion date.

FINAL GRR/SEIS IS FATALLY DEFECTIVE

As previously stated, the Corps GRR/SEIS process was conducted from the start by the Corps' own admission, at the request of the South Florida Water Management District, the local sponsor, "to assist in the selection of a Recommended Plan," so that the District could select a Locally Preferred Alternative (LPA). (See Final GRR, Section 1. 1, page I and Final SEIS page 2). In fact, according to Section 4.1 of the Final GRR, the project goal and "desired end result is to facilitate potential selection of a Recommended Plan for the 8.5 SMA." (Final GRR, Section 4. 1, page 38 and Final SEIS page 6). And, in the end, according to the GRR, "the Governing Board has based its recommendation on this information," and selected alternative 6 (d) which in turn became the Corps' final decision. (Final GRR Section 1.3, page 4 and GRR Section 2.6, page 14).

Thus, from its very inception, the Corps' alleged NEPA process was fundamentally flawed and the Final GRR/SEIS, as a result, is fatally defective. By conducting a predetermined process to "assist" and "facilitate" a non-federal entity's decision and then "rubber stamping" that decision, the Corps has violated the primary function of an Environmental Impact Statement (EIS) under NEPA, which is "to insure a fully informed and well-considered decision." The Corps' failure to prepare a proper and legally sufficient Final GRR/SEIS has injured, and will continue to injure, the

Miccosukee Tribe of Indians of Florida who live in the Florida Everglades.

FINAL GRR/SEIS RUBBER STAMPS NON-FEDERAL DECISION

The Corps knew from the start that the District's selection of an LPA was not federal decision making, and so they entitled one version of their twin document a General Reevaluation Report (GRR). The Corps' entitlement of the other twin document an SEIS, and their continued assertions throughout the process that they would make the final decision, does not cure this fatal defect. From the very beginning, it was the intention of the Corps to "rubber stamp" the District's nonfederal decision. And, in the end, the Corps did exactly that, even after the Governing Board decided not to call their recommendation of 6 (d) an LPA. Both the Draft and Final GRR/SEIS clearly state numerous times that the federal government conducted an SEIS process so that the District could select a recommended alternative, thereby prejudicing the alleged federal process. Although the Corps continues to contend that they made the final decision, proof that they merely "rubber stamped" the District's non-federal decision is in the fact that the Corps' Final Commitments and Recommendations contains camouflaged among contractual language and some new commitments, a virtual "rubber stamping" of the decision elements of the Governing Board's resolution of June 15, 2000, even including the District's concerns about local zoning issues, a matter over which the Corps has no authority. (See Section 5.0 of the Final SEIS pages 137-140).

This improper reliance on the local sponsor to select a preferred federal alternative is an impermissible delegation of the Corps' federal authority that caused them not to objectively evaluate the federal interest. A state entity, such as the District, is established to pursue defined state goals, which greatly influenced their recommendation of an alternative. Transposing the federal duty to select an alternative to a state entity prevented a fair and impartial evaluation of the project and resulted in a decision that was not based on the federal agency's objectives. This improper process allowed the District's narrow, self-serving assumptions to influence the Corps' preferred alternative in the Final GRR/SEIS and resulted in the selection of an unreasonable alternative that fails to meet Section 404 of P.L. 101-229, and that will cost federal taxpayers at least three times as much to meet the federal interest.

Further proof that the Corps' selection was predetermined, is the fact that in May, after the Draft GRR/SEIS had been distributed in April, the District asked the Corps to study two new alternatives, 6(c) and 6(d) that they felt better met their interests (See GRR Section 2.6 page 14 and Section 3.47 page 35.) The Corps obliged and distributed a voluminous addendum to the already massive document, but refused to allow the public extended comment period to respond to this new information. (See Attachment A, correspondence between Colonel Miller and Tribe). The Corps contends that these were not two new alternatives, but merely variations of one they already presented in the first document. (See GRR Section 3.33, page 31). Yet, this argument is arbitrary and capricious in light of the fact that throughout the SEIS process they treated alternatives 2 and 9, variations of alternative 1, as separate and distinct alternatives. It appears that the Corps did not see the need to allow additional time for public comment on 6 (d), because they knew that they would merely be acquiescing to the District's preferred alternative.

Finally, proof of a post hoc rationalization process is blatantly evident in the Draft Coordination Act Report (CAR) and letter from the FWS dated May 17, 2000 in which they rejected alternative 6(d) and stated that the environmental benefit did not justify the increased cost. (See Attachment B, FWS/DOI letter to District and pages from FWS Draft CAR.) This letter and report is in direct contrast to the Final FWS CAR and the June 30, 2000 letter from Mary Doyle supporting the alternative. (See Attachment C, Doyle letter.) Although the CAR and the Final GRR/SEIS both state that the "federally recommended plan is based on Alternative 6 (d) as modified by "special assurances," it is clear that these assurances do not answer all of the points in the Draft CAR, and the "assurances" (which were not included in the Draft GRR/SEIS that went out for public comment) are themselves a violation of NEPA and the APA. (Final GRR, page 111).

IMPROPER SEGMENTATION OF MWD PROJECT VIOLATES NEPA

The National Environmental Policy Act (NEPA) clearly provides that connected projects should be evaluated in a single EIS. (40 CFR Section 1502.4) C.E.Q. Regulations governing NEPA state that, "proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement." (40 C.F.R. 1502.4). In fact, when the Corps prepared the General Design Memorandum (GDM) for the Modified Water Deliveries Project in 1992, it evaluated all aspects of this interrelated project in a single EIS. The Final GRR/SEIS itself supports this interrelationship stating that, **"the flood mitigation of the 8.5 SMA is only one of several components of the Modified Water Deliveries Project that is currently being reevaluated. Specifically, modifying a portion of Tamiami Trail, and the control of seepage and conveyance from WCA-3A, are very much related to the hydrology of the 8.5 SMA system"** (Final GRR Section 3.3.3, page 29). (Emphasis Supplied).

The Corps has improperly segmented the Modified Water Deliveries Project into components that under NEPA must be considered in a single SEIS, even while acknowledging that the 1992 GDM detailed the condition of the environment and resources within a much larger study area and acknowledges that WCA 1, 2 and 3 include "the largest remaining portion of undeveloped Everglades in existence." (Final GRR Section 3.2.2, page 19.). According to Section 3.2.2, "WCA-3A is the largest and southernmost of these areas, with a total size of about 915 square miles." Tribal lands in WCA-3A were included in the study area of the 1992 GDM but excluded from the segmented final GRR/SEIS, despite the Tribe's protests. (See Attachment D, page from Final GDM on MWD 1992). Additionally, the improper segmentation has caused the Final GRR/SEIS to fail to properly assess impacts on agricultural lands by stating that impacts are "attributed to restoration flows in NESRS" and independent of the 8.5 SMA alternatives. (Final GRR page 54).

Section 2.6.1 of the Final SEIS states that "the specific focus of the MWD is the Water Conservation Areas, Northeast Shark River Slough and the Shark River Slough Basin of ENP." It further states that **"when fully operational the MWD project will benefit the ecosystem function and habitat value of approximately 100,000 acres of wetlands in NESRS, 600,000 acres of wetlands in WCA-3A and 200,000 acres of wetlands within the Shark River Slough basin of**

ENP." (GRR page Section 2.6. 1).

Yet, despite these acknowledgments, the Corps allowed the Modified Water Deliveries Project to be improperly segmented, and the study area to be drastically reduced to the 8.5 SMA and the ENP Expansion Area (Final GRR Section 3. 1, page 19). By doing this, the Corps has allowed the project purpose to be skewed and the environmental impacts to be grossly underestimated. This in turn caused the District, more concerned about local, political issues surrounding the 8.5 SMA rather than the devastating impacts that delay of the Modified Water Deliveries Project is having on the larger Everglades ecosystem, to select unreasonable and delay inspiring alternative 6 (d). It also allowed the FWS and the Corps to underestimate the costs of delay to the Everglades and other wetlands outside the immediate vicinity of the 8.5 SMA that will be caused by the selection of alternative 6 (d). (See Attachment E, letter to Colonel Miller from Tribe.)

Finally, the Corps response to the Tribe's comments on the Draft GRR/SEIS that the segmentation of the MWD into three separate components is allowable as "tiering" is defied by the fact that the MWD is not conceptual, the reality that the Corps analyzed all these now segmented components in a single EIS in 1992, and the fact that the Corps admits that they are currently undergoing a NEPA process on other interrelated components of the MWD project. It is clear that NEPA requires a single SEIS document, so that the cumulative impacts of the major federal action, the Modified Water Deliveries Project, can be analyzed.

IMPROPER SEGMENTATION AND NARROW SCOPE FAIL TO ANALYZE ENVIRONMENTAL IMPACTS AND COST OF DELAY ON TRIBAL LANDS

The improper segmentation of the MWD project in violation of the mandatory requirements of NEPA, caused the Corps to narrowly limit the scope of analysis of cumulative impacts of all component parts of the project on the greater Everglades ecosystem. By examining the 8.5 SMA, Tamiami Trail, and seepage components of one project in isolated statements, the Corps failed to consider the net impact that all these geographically connected components of the project will have on the environment. The Corps, despite numerous public comments and letters from the Tribe during the scoping process, refused to broaden the scope of their analysis. (See Attachment F, letter to Colonel Miller from Tribe.)

Because the Corps refused to broaden the study area and consider serious environmental issue raised by the Tribe, their Final GRR/SEIS omits issues of critical importance, such as the impact of their project on Tribal Everglades lands and other natural areas, including the endangered and threatened species that inhabit these areas. In fact, the Final GRR/SEIS fails to discuss or analyze cumulative impacts of their proposal. The Corps admits that the "loss of tree islands has an impact on critical habitats and cultural resources in WCA-3A, delayed implementation of the MWD project will cause an estimated loss of 8.4 islands and 246 acres per year at an estimated cost of \$50,000 to \$500, 000 per acre. (Final GRR Section 5.2.7, page 64 and Table 7). But, the Corps excuses their omission of a quantitative assessment of the damages that will be caused by further delay of implementation of the MWD project by stating that "While, access to tree island sites have occurred

during the delay of implementation, permanent elimination of a site solely as a result of delay has not been proven." (Final GRR page 64). The Corps is required under NEPA to take a "hard. look" and analyze the consequences of their actions. The Corps "no look = no harm" attitude concerning damages to Tribal lands in WCA-3A violates this requirement of NEPA.

Finally, the Corps' assertion that this area is believed to have experienced lower than historic water levels beginning in the 1960's that may have artificially increased opportunity for access to tree islands is not only laughable, it fails to recognize the historical fact that the Miccosukee Indians have been using and have had access to these tree islands in the Everglades for generations. Similarly, the assertion that it is the Experimental Water Deliveries Program that has resulted in higher than normal water levels and a decrease in the ability to use these tree islands for cultural resources bolsters the Tribe's argument about the cost of delay because Experimental Deliveries would no longer be in effect had the Corps completed the MWD project as Congress directed. In short, the cost of delay is real and the failure to quantify it, including damages caused by Experimental Deliveries, in the Final GRR/SEIS violates NEPA.

MODIFICATION OF PROJECT PURPOSE IS ARBITRARY AND CAPRICIOUS

The 1989, law championed by the late Congressman Dante B. Fascell, directed the Secretary of the Army to build the Modified Water Deliveries Project. The Final GRR/SEIS mistakenly modifies the authorized project purpose provided in P.L. 101-229 by selection of an alternative that is so foreign to the original purpose of the statute that it is arbitrary and capricious. The language of the law clearly states:

SECTION 104. MODIFICATION OF CERTAIN WATER PROJECTS

(a) IMPROVED WATER DELIVERIES:

(1) Upon completion of a final report by the Chief of the Army Corps of Engineers, the Secretary of the Army, in consultation with the Secretary is authorized and directed to construct modifications to the Central and Southern Florida Project to improve water deliveries into the park and shall to the extent practicable, take steps to restore the natural hydrological conditions within the park.

Additionally, Section 104 (2) states that such modifications shall be as "***generally set forth in a General Design Memorandum to be prepared by the Jacksonville District;***" Section 104(3) states that the project is justified by the "***benefits to be derived by the Everglades ecosystem in general and the park in particular;***" and Section 104 (c) states that ***if the Secretary of the Army makes a determination that the "Eight and One-Half Square Mile Area" will be adversely affected, "the Secretary of the Army is authorized and directed to construct a flood protection system for that portion of presently developed land within such area."*** It is clear Congress authorized a Modified Water Deliveries Project for the "Everglades ecosystem in general," not an 8.5 SMA Project, and the components of that project are so closely connected that it is a violation of NEPA to improperly segment them. Indeed, if you read the section of the law on the 8.5 SMA, the only thing the Corps is authorized to do for the 8.5 SMA is to construct protection for it.

To create a specific 8.5 SMA project and select an alternative that condemns people, which was not authorized by Congress, is to subvert the will of Congress and stand NEPA on its head. The Corps itself has admitted in a letter to FWS that they do not currently have condemnation authority for the area this alternative will condemn, but they remain silent about this relevant issue in the Final GRR/SEIS which under NEPA is required to be a full disclosure document. (See Attachment G, letter from Corps to FWS).

It is clear that the Corps has disregarded, and seeks to evade, the substantive statutory requirements of P.L. 101-229 (Section 4). To do so, they chose to sweep serious problems under the rug, such as the fact that they don't have condemnation or Congressional authority for this project. They did so knowing that seeking condemnation and/or Congressional authority for 6(d) would seriously delay the MWD project beyond the December 2003 deadline, thereby rendering the District's preferred alternative 6(d) unreasonable. Selection of alternative 6(d), which could only occur by not fully disclosing these serious issues and problems violates the full disclosure requirements of NEPA and will result in delay and further damage to hundreds of thousands of acres of the Everglades ecosystem that the Corps admits will be impacted by MWD. It is a clear violation of NEPA to omit significant relevant factors, avoid taking a "hard look" at the cumulative impacts of agency actions, and to sweep significant environmental problems under the rug.

A FAIR AND OBJECTIVE EVALUATION WOULD HAVE RESULTED IN THE FASCELL/CORPS PLAN

An objective and impartial evaluation of the Final GRR/SEIS leads to the same logical conclusion that was reached in the 1992 General Design Memorandum on MWD and in numerous other reports, the 1992 Corps plan/concept is by far the fastest, cheapest, and most humane way of satisfying the federal interest for the 8.5 Square Mile Area. In fact, the Final GRR/SEIS, which admitted that the authorized Corps plan/concept will restore the Slough, admits that the, **"Structural alternatives 1, 2B and 9 performed the best of all alternatives when evaluating project costs, flood mitigation, and associated social impacts."** (Final GRR page 69). The document further states that alternative 1, the authorized plan, **"meets the ecological goals of the MWD project, while minimizing project costs and social impacts."** (Final GRR Section 6.42). Section C of the Final GRR/SEIS states that, **"Based on the grouping of alternatives by cost and completeness schedule, it appears that Alternatives 1, 2B and 9 are the least expensive..."** (Emphasis Supplied).

Thus, it is clear that a truly fair and objective review of the document would have resulted in the Corps selection of the authorized plan, or a variation of that plan, as the one that satisfies the federal interest at the least cost to the taxpayer. Instead, the Corps arbitrarily and capriciously "rubber stamped" alternative 6(d), which will cost federal taxpayers at least 2.9 times the authorized Corp plan/concept for allegedly "optimizing environmental benefits", knowing that such a statement could only be made by failing to take a "hard look" at the cumulative environmental impacts of the project on the greater Everglades ecosystem.

The Corps knows that an alternative must also be "reasonable," yet in their "rubber stamping" of alternative 6(d) they chose to be unreasonable. Under NEPA, "reasonable" means that it must be able to be implemented within the time frame allotted for the project. The Corps MWD project is already woefully behind the 1997 completion date and has now been mandated a 2003 deadline for the completion of the MWD project due to a Fish and Wildlife (FWS) Biological Opinion. A review of Tables 8, 9, and 10 and the Implementation Schedule Section in the Final GRR/SEIS demonstrates that the 1992 Corps plan/concept is clearly the only way that the Corps can possibly meet this date. (Final GRR, page 65).

The Final GRR states that **"alternatives 1, 2b and 9 were assigned with green indicators since these alternatives are closely approximate to the Authorized Plan, where implementation could proceed with current authority and agreements, " and alternatives 4, 5, 6B, 6C, 6D, 7 And 8A, which involve land acquisition or flow way easements were assigned with red indicators due to the anticipated time requirements during the acquisition process."** (Final GRR page 65). (Emphasis Supplied). Yet, despite these acknowledgments, the Corps "rubber stamped" alternative 6(d) that has clear impediments to the implementation by December 2003. Tables 8, 9 and 10 list "worse" ratings and red lights in the implementation of alternative 6(d). The Final GRR/SEIS states that "A red light designation generally signifies that there is significant concern that attainment of a specified objective as related to performance measure may not be feasible." (Final GRR Section 5.2, page 55). Meanwhile Alternative 1, 2 and 9 have all green lights which according to the GRR provides "relative confidence in achieving the stated objectives."

Despite the plethora of red lights and "worse" designations associated with 6 (d), the Corps arbitrarily and capriciously ignores the facts and concludes that the project can be completed by December 2003 provided the following reasonable and foreseeable constraints (which they don't bother to analyze or adequately address) are met: "condemnation authority" will be available for use in land acquisition and property required for construction is purchased by June 2002. They further acknowledge that "this is a relatively tight construction schedule and delays in either land acquisition or permit issuance could require a compression to this construction schedule." (Final GRR Section 7.6, page 88). The Corps does not disclose the fact that they currently do not have condemnation authority beyond the 1992 authorized plan, nor do they give any time line for obtaining such condemnation, nor any realistic time frame for actually removing the people they don't have authority to remove from their homes.

"ACTION" ALTERNATIVE INCORRECTLY CALLED "NO ACTION"

It is clear that the Corps' support of the District's recommended alternative 6(d) is not a reasoned decision and is not supported by the record. The Corps did not compile their information in objective good faith, did not conduct their decision making process in an objective fashion, and even failed to describe a clearly defined proposed action in their Draft GRR/SEIS, contrary to 40 CFR 1502.4 (a). In fact, the authorized federal plan that had gone through a full NEPA process in 1992 was incorrectly labeled the "no action" alternative in the current SEIS process. (Final GRR Section 5, page 49 and Final SEIS Section 2. 1, page 12).

The Corps' failure to provide a true "no action" alternative for a MWD project component that by the Corps' own admission could stop the entire project, caused them to fail to analyze and assess the environmental impacts of the failure to implement the project, and resulted in a faulty analysis of the benefits of the alternatives that were compared against a faulty "no action" alternative. In fact, the already described segmentation of the MWD project, and failure to measure the environmental impacts against a "no action" alternative allowed the FWS to conduct a faulty CAR process that greatly overestimated the benefits of reclamation of wetlands along the border of the Park, while grossly underestimating the adverse environmental impact on hundreds of thousands of acres of wetlands north of the Park that would be caused by failure to complete the project.

The 1992 GDM on the Modified Water Deliveries Project states on page 24 that, **"The future without project condition will lead to further deterioration of unique and outstanding ecological resources of the Everglades that are recognized and valued throughout the world."** And the 1992 GDM/EIS lists a plethora of adverse environmental impacts including limited water deliveries to the Park, a change in wetlands, fires, exotics, wading bird population decline and alligator nest failures. (See attachment H, page from 1992 GDM). Thus, by incorrectly listing the federally authorized plan for the 8.5 SMA as the "no action" alternative, the Corps did not allow a true comparison against the "without project condition," but instead allowed environmental benefits to be judged against alternative 1, an "action alternative", which is an authorized project that greatly improves natural hydrologic conditions and the ecology.

CORPS ACCEPTANCE OF THE FWS CAR IS CONTRARY TO LAW

In the Tribe's Draft comments we warned the Corps that the faulty CAR WRAP (Wetlands Rapid Assessment Process) was being used by FWS to portray the "edge effect" on the boundary of the Park in a misleading way that overstated the environmental significance of wetlands in the 8.5 SMA. Rather than looking at the existing degraded conditions as their point of departure/basis of comparison, the Corps allowed DOI to use a different basis of comparison ...the hydrology prior to human alteration of the system which they define as "full MWD implementation." (Final GRR page 50). Thus, when the Corps adds more water to Shark River Slough via the execution of the MWD project, they improve greatly the hydration of 100,000's of acres to include those next to the 8.5 SMA. On the other hand, the FWS CAR admits no improvement in these areas, but instead makes it sound like the Corps is actually lowering water levels. In the Final GRR/SEIS, the Corps has arbitrarily and capriciously accepted the FWS use of a different base of comparison than that used by the Corps and this resulted in a faulty hydrological assessment of environmental benefit of alternatives in the CAR.

As the Tribe has commented to the Corps on several occasions during the report preparation and in our comments on the Draft GRR/SEIS, the "edge effect" does not justify acquisition because the purpose of the MWD project is to restore 100,000's of acres of Everglades. **Congress directed the Corps to restore flows "to the extent practicable,"** not to Natural System Model levels. The Corps should have rejected the FWS CAR, because it was based on a WRAP model that has not gone through rulemaking and a hydrological model that was different from that of the Corps.

The Corps failure to reject the Final CAR report, and the "edge effect" it has inspired, as prejudicial, based on faulty data and a process that has not gone through rulemaking, resulted in an ill-informed conclusion and the selection of an unreasonable alternative that will be an obstacle to implementing the MWD project. It is interesting to note that the Congressional history of P.L. 101-229 that directed that the 8.5 Square Mile Area should be protected while flows were restored to the extent practicable to the Slough demonstrates that those who supported the law, including the Park, were always aware that there would be a small transition area.

As stated previously, the Final GRR/SEIS, which is improperly segmented and fails to judge benefits against a true "no action" alternative, has resulted in a prejudicial and faulty Final FWS CAR that skews the environmental analysis of alternatives and results in a faulty conclusion. Additionally, the Tribe had previously sent the Corp a letter rejecting the faulty WRAP process because WRAP has not been through rulemaking and the team used DERM data and DERM elevations that are incorrect and flawed, even according to the County's own flood criteria map. (See Attachment F, letter from Tribe to Colonel Miller). Additionally, FWS relied on this faulty analysis/recommendation from an interagency group of state, federal, and local representative to rank the alternatives, thereby prejudicing the process and violating FACA.

In short, the Final GRR/SEIS does not disclose that WRAP has not gone through rulemaking, nor does it contain the disclosure that the Corps had sent the District a letter concerning their decision not to make the Draft CAR and official part of the Draft SEIS because they felt it was prejudicial. Although the Final GRR/SEIS does describe briefly the differences in modeling between the Corps SEIS and the CAR, in the Final GRR/SEIS the Corps continued to allow the FWS to continue to use a different basis of comparison from the Corps' and failed to force them to include the entire MWD study area in their environmental comparison. Finally, the Corps should have continued to reject the FWS CAR as faulty, prejudicial, and based on a tool that had not gone through rulemaking, and should have conducted their own analysis independent of the FWS to verify the validity of their conclusions.

NEW COMMITMENTS MADE IN FINAL GRR/SEIS VIOLATE NEPA & APA

The Final GRR/SEIS states that the USACE and DOI have identified alternative 6 (d) "with conditions" as the recommended plan. (Final SEIS Section 1.7 page 9). These new commitments, which the Tribe became aware of only days before the Final GRR/SEIS was issued, are identified in the FWS Final CAR Chapter 10, entitled Department of the Interior Recommendations for the Design, Construction, and Operation of the Federally Selected Alternative 6 (d), which are supported in Section 3.12.2 of the Final SEIS. Section 3.12.2 states, **"The federally recommended plan is based on Alternative 6 (d) as modified by special assurances related to design and operation."** (See Section 3.12.2 and page 111). (See also Attachment I, letter from Tribe to Colonel Miller and Attachment J, pages from FWS Final CAR).

These new commitments are further elaborated in a letter from James Duck to John Hankinson, Regional EPA Administrator, dated July 27, 2000, the same day the Final GRR/SEIS

was distributed to the public. (See attachment K, letter from Duck to Hankinson). This letter states, **"The recommended plan consists of the alignment of Alternative 6 (d), with the addition of some further commitments among the cooperating agencies..."** The letters speaks of commitments made concerning land management, additional land acquisition from willing sellers, up front development of water quality treatment, operations and other issues which, along with the assurances in Chapter 10 of the FWS CAR, that were not disclosed in the Draft GRR/SEIS.

These new commitments, which were apparently developed after the Draft GRR/SEIS was distributed for public comment, and after public comment had ended, should have been part of the NEPA process and require further NEPA analysis. The Corps ignored a letter from the Tribe that was sent prior to distribution of the Final GRR/SEIS expressing concern over the Draft Final FWS CAR of which they obtained a copy, but the Corps apparently accepted the DOI recommendations and made new commitments outside the GRR/SEIS process and in violation of NEPA and the APA.

CORPS FAILED TO ADEQUATELY RESPOND TO TRIBE'S KEY POINTS

The Corps narrowly described the Miccosukee Tribe's position on the MWD project in the Final GRR. (Final GRR Section 8.4, page 96). Rather than reiterate the Tribe's long standing concerns associated with the failure to implement the MWD project that were reiterated in our Draft comments, the Corps chose to reprint a letter written on the Tribe's behalf by Colonel Terry Rice that solely addressed relevant concerns about the implementability of alternative 6(d). The Corps briefly responded to, but failed to adequately address, these grave concerns, in their Real Estate Section D. Failing to disclose their statutory requirements under P.L. 101-229, or their prior statements on condemnation to FWS, the Corps merely asserted with no proof that "condemnation authority is inherent in the approval of the Corps acquisition project." (Final GRR/SEIS, page D-41). They also made the statement that "without authority for condemnation, one unwilling seller could prevent the entire project from moving forward." (Final GRR /SEIS, D-41). They failed to address the Tribe's point made ad nauseam that with even one "unwilling seller" (and the Corps knows there are many) it will require condemnation for which the Corps has no clear authority under P L 101-229 and which will result in delay of the MWD project. Even with such authority, the legal process on condemnation would still result in a serious delay, as it has in the Park Expansion Area. The failure of the Corps to discuss and analyze these relevant issues in the Final GRR/SEIS and to analyze and calculate the costs of delay is a violation of NEPA and resulted in the selection of an unreasonable and unimplementable alternative.

Similarly, the Corps failed to adequately respond, or in some cases did not respond at all, to many key points that the Tribe made on the Draft GRR/SEIS. Many of these comments were taken from a letter that was sent to the South Florida Water Management District Governing Board of the South Florida Water Management District (SFWMD), again by Colonel Rice on April 17, 2000, concerning their selection of a Locally Preferred Alternative (LPA). (See Attachment L, Tribe's Comments on Draft SEIS.) Some of the key points made by the Tribe that the Corps has failed to adequately address in the Final GRR/SEIS include:

Fiscal Responsibility:

The Corps' "rubber stamping" of alternative 6(d) jeopardizes the "cost effectiveness" principal being used in the MWD project, as well as other environmental restoration projects that were historically judged by "benefit/cost ratios". The Corps has endorsed an option that has no discernible increased environmental benefit at 2.9 times the cost of the authorized federal plan. Even the FWS originally contended that the increase in federal cost was not justified because it provided little environment benefit. (See Attachment B). The Corps has now opened itself up to criticism that will fuel a reluctance by Congress to fund projects based on this more liberal basis.

Mod Water is 100% Federal Responsibility:

The plan chosen for the Modified Water Deliveries project to fulfill the federal interest in carrying out the 1989 Act is a 100% federal funding responsibility that is authorized and funded through DOI channels with no local sponsor cost share required. **The SFWMD selected alternative 6 (d), that will cost 2.9 times the cost of the authorized federal plan, as their recommended plan, but rejected paying any of the additional construction costs.** The Corps apparently is relying on the DOI for the additional funds, but acknowledges that these funds are contingent upon budgetary constraints. (Final GRR Section 9.4, page 100). Additionally, it is unclear how the Corps can acquire Save Our River lands from the District that were bought under strict statutory requirements, and have the Corps own them while the District will be required to manage them at an excessive cost to taxpayers. (Final GRR, Section 9.1, page 100). The Corps failure to identify an assured source of funding for alternative 6(d) has caused the District to select, and the Corps to "rubber stamp" an alternative that is unreasonable and unimplementable.

All Costs Are Not On the Table in the Final GRR/SEIS:

Costs for alternatives, including 6(d), that condemn and acquire land in the 8.5 SMA are not fully assessed in the Final GRR/SEIS, nor were the severe demands they will create on limited public funds fully disclosed as NEPA requires: **The 3 major costs as discussed below, will conservatively result in an increase in the cost of implementation. Increased cost of acquisition would realistically be \$111 million instead of the estimated \$55 million; a realistic cost of restoration from \$28 to \$115 million; an annual cost of maintenance of approximately \$11.5 million; and a cost of delay, only considering tree island destruction, from \$12.3 million to \$123 million per year.**

1) Increased acquisition costs: In land acquisition there is a good rule of thumb ... "the final cost will be significantly greater than the first estimate." As an example, the Frog Pond was appraised for approximately \$12 million in the C-111 project planning process, but in the end, the SFWMD paid \$43 million. In the case of the 8.5 SMA if we only assume a doubling of the estimate for 6(d) the increase would be about \$55 million, bringing the acquisition cost to \$111.4 million just for land acquisition that would be added to construction cost. Yet, The Final GRR/SEIS only has preliminary real estate estimates for land acquisition and fails to quantify realistic condemnation

costs, including the cost of a quick take that would be necessary to achieve project deadlines. (Final GRR/SEIS, Appendix D, page 1).

2) Increased restoration and maintenance costs: If land (agricultural, residential, commercial, or even degraded wetlands) is purchased in the 8.5 SMA, it will not magically migrate to wetland conditions in five years, as the Final GRR/SEIS states. (See Final GRR page 85). It is also unclear how the Corps plans to take into ownership all the District's Save Our Rivers lands, which require a "stewardship" plan. The hole-in-the-donut, which was left unattended after it was purchased, was overtaken by Brazilian Pepper and will cost \$26,000 an acre to restore.

The Final GRR/SEIS says that the Corps will acquire SOR lands from the District and the District will restore and manage these lands, but does not state how this legal arrangement of federal ownership with District management (which probably requires Board or even legislative action) will occur, and provides totally unrealistic dollar amounts for managing these lands at public expense. The Tribe's experts have testified that It could cost \$10,000 to \$40,000 per acre for restoration and \$3,000 to \$5,000 per acre per year to maintain the lands in the 8.5 SMA. According to the Final SEIS 2,881 acres of land will be acquired to implement alternative 6 (d). (See Final SEIS page 114 and Attachment L). **A quick calculation using 2,881 acres at \$10K to \$40K per acre estimates the cost from approximately \$28,810,000 to \$115,240,000 for restoration, and \$4K per acre per year for maintenance results in annual cost of \$11,524,000.** Yet, the Corps has refused to calculate realistic costs for restoration and management of this land in the Final GRR/SEIS. Instead, the Corps has come up with a **grossly underestimated cost of \$67,500** a year for the District to manage these lands. (See Section 9.1 page 100). The failure to disclose this important information on costs has caused the District to select alternative 6 (d), which they may not have the funds to manage, and which unmanaged will result in an environmental nightmare of exotics and local dumping. The Corps had the duty under NEPA to calculate these costs in the Final GRR/SEIS. The Corps failure to calculate and estimate the reasonable and foreseeable costs of acquisition, restoration and maintenance of the land associated with alternative 6 (d), resulted in the selection of an unreasonable and unimplementable alternative that will have adverse environmental impacts that have not been fully addressed.

3) Increased delays in implementation: The assumption in the Final GRR/SEIS that all alternatives can be completed in about the same time frame is fundamentally flawed and disingenuous since Tables 8, 9 and 10, (the "worse" and red light/green light tables) show that there are serious delay problems associated with the acquisition alternatives that makes them "unreasonable." The Corps plan and its variations are ready to go. The other plans require additional steps that will probably delay implementation for many years and perhaps decades, ie. Congressional approval, Corps approval, additional funding, condemnation authority, and/or a new/revised Project Cooperation Agreement. During the delay, the damage to Lake Okeechobee, the WCA's, the east/west estuaries, Florida Bay, and even the Park, along with an increased jeopardy to agricultural and urban areas of flooding, will continue with an incalculable cost. Among the many parts of the natural system that are, and will continue to be, damaged are Tribal lands in WCA-3A. **Table 7 in the Final GRR/SEIS estimates that about 246 acres are being lost for each year of delay and**

the cost of restoration ranges from \$50,000 to \$500,000 per acre to restore them therefore. the increase in cost due to tree islands alone is from \$12.3 million to \$123 million per year. The Final GRR/SEIS incorrectly fails to quantify this cost of delay in Table 7 into the red light alternatives, because it arbitrarily and capriciously states there will be no delay. This failure to quantify the cost of the reasonable a foreseeable delay that the Corps has admitted can occur on the tree islands and other natural resources in WCA-3A, is a fundamental flaw that seriously underestimates the costs of alternative 6 (d)'s impacts on Tribal lands in WCA-3A and other parts of the ecosystem The Final GRR/SEIS should have used network analysis and risk assessment and detailed the steps that will be required to complete each alternative, including 6 (d). The failure to quantify the costs associated with the delay that each alternative induces in the Final GRR/SEIS violates NEPA and resulted in the "rubber stamping" of an unreasonable and unimplementable alternative 6 (d).

Legal Pitfalls:

The Corps failed to adequately address the following legal issues raised by the Tribe in their Comments on the Draft GRR/SEIS in the Final GRR/SEIS:

"Cart Before the Horse":

The Tribe warned that by not identifying the Corps preferred alternative and by conducting an unnecessary analysis so that state entity can make a decision on an LPA prior to the Corps completing its analysis, the Corps prejudged the NEPA decision making. As a result of the Corps ignoring the Tribe's warnings, the Corps Final GRR/SEIS will be appropriately challenged as having not been a federal decision making process, but instead a "rubber stamping" of the non-federal decision of a state entity.

Congress Was Clear:

As stated on pages 5 and 6, the Federal interest as specified in the 1989 Act and the 1994 amendment to the Act is very clear:

1) PL 101-229 Is Unequivocal

Flood Protection; Eight and One-Half Square Mile Area. - If the Secretary of the Army makes a determination pursuant to subsection (b) that the "Eight and One-Half Square Mile Area" will be adversely affected, the Secretary of the Army is authorized and directed to construct a flood protection system for that portion of presently developed land within such area.

The choice of alternative 6 (d), which does not construct a flood protection system "for the portion of presently developed land within such area" is certain to result in a legal challenge by those 'within such area. " The statements in the Final GRR/SEIS that acquisition of the 8.5 Square Mile Area and condemnation of the land is "mitigation" are ludicrous and Congress will never stand for such a perversion. Failure of the Corps to select a plan that meets the statutory requirements of P.L.

101-229 is a clear and fatal error.

2) 1994 Amendment being misused

The 1994 amendment to PL 101-229 has listed in the CAR as one of the ways that DOI will fund alternative 6(d). A reading of the amendment and accompanying report language, demonstrate that it only authorizes acquisition under funds allocated for the years 1992-1994 and only if no condemnation is authorized, the land will not be a buffer for the Park, and if the acquisition solution is faster and cheaper than the Corps 1992 plan. The use of funds from the 1994 amendment are clearly forbidden for alternative 6 (d).

3) Use by Miami-Dade County DERM of EEL and SAMP Funds to Cost Share Land Acquisition

As noted in the Final GRR/SEIS, Miami-Dade County has made it clear that they do not want funds from the Environmentally Endangered Lands Fund to be commingled with any alternative that results in condemnation of the residents. (See Attachment M, Miami Herald articles). Any attempts to use EEL or Special Area Management Plan (SAMP) monies in the Wetlands Trust Fund for land being developed in the Bird Drive and North Trail Basins will be challenged.

4) Commitment of Federal Funds

The federal interest is satisfied by the 1992 Corps plan/concept. The commitment above and beyond what meets the federal interest is arbitrary and capricious and unlawful, especially since FWS stated before commitments were apparently made outside the NEPA process, that 6 (d) did not meet the legislative requirements of the project and did not justify an increase in federal expenditures. (See Attachment B).

5) Property Rights and Public Purpose

It is a violation of property rights and the constitution to remove people from their homes when it is not necessary for the goal you are trying to accomplish. Yet, the Corps plans to remove "107 residential homes of tenant occupied structures and one commercial establishment" to implement alternative 6 (d), despite the fact it is not necessary and there is absolutely no public purpose under P.L. 101-229 for the condemnation of these residents. (See Final SEIS Section 7.9.2, page 92). The Corps has built a voluminous record that condemnation and removal of residents in the 8.5 SMA is not necessary to restore flows to Shark River Slough. There was absolutely no discussion in the Final GRR/SEIS of whether or not alternative 6 (d) meets the public purpose requirements for condemnation. In fact, the modeling of alternatives demonstrates that there is no significant difference in restoring flows to Shark River Slough between the Corps plan/concept and alternative 6 (d) and thus, no public purpose. (See Final GRR Section 5, pages 49 and 50). By failing to acknowledge this fact, the Corps has swept another stubborn problem under the rug in violation of NEPA.

6) Human Rights

The Final GRR/SEIS clearly defines the 8.5 SMA as a minority, Hispanic community with many Cuban refugees. The President's Executive Order 12898 clearly requires agencies to see that Everglades Restoration does not have a disproportionate impact on minority and low income communities. Yet, this requirement of the federal government was not stressed to the District in their selection of alternative 6 (d). The League of United Latin American Citizens (LULAC), the oldest and most respected Hispanic civil rights organization in the country with 140,000 members has recently passed a national resolution denouncing the treatment that both the 8.5 Square Mile Area and the Miccosukee Tribe are receiving in the implementation of the MWD project as discriminatory and a violation of human rights. (See Attachment N, LULAC Resolution) LULAC, and others, are considering litigation to stop this grave injustice, but that did not stop the Corps from "rubber stamping" an alternative that has unnecessary environmental justice impacts associated with it and is contrary to EO 12898.

Administrative Hurdles:

The Corps had the duty to make certain that they disclosed and analyzed the administrative hurdles that would be created by a plan other than the 1992 Corps plan. Instead of disclosing them, the Corps in violation of NEPA refused to clearly delineate and take a "hard look" at them. The result of the Corps failure to do this, despite the Tribe's numerous requests, has caused the District to choose, and the Corps to "rubber stamp", an alternative that will result in a dead-end excursion. Some of these hurdles that Corps has neglected to take a "hard look" at or address are:

1) Money

The Final GRR/SEIS and CAR identify possible DOI sources of funding for alternative 6 (d), but contain no time frames for obtaining such funds or assurances of certainty. Because there are no assurances that the funds can be obtained for the greatly increased cost of alternative 6 (d), many years will be lost in implementing the MWD project and the environmental cost of delay will be greatly increased.

2) Congressional Approval

The Corps made no response to the Tribe's comment that alternative 6 (d), and other acquisition alternatives, would require new Congressional approval, which might include amending the law. Because alternative 6 (d) does not meet the requirements of P.L. 101-229, it is clear that congressional approval is needed and that this in turn will delay implementation of the MWD project and render alternative 6 (d) unreasonable. The Corps has violated NEPA by failing to respond to this issue raised by the Tribe and in doing so has again swept a critical issue under the rug.

3) Corps Approval

The Final GRR/SEIS does not contain a realistic time line for the associated steps and the risks entailed in Corps approval of alternative 6 (d).

4) Corps Redesign

The Final GRR/SEIS does not realistically layout the steps, time line, and associated risks of alternative 6 (d). The Corps simply states that condemnation and project completion will take place by December 2003 (the Draft said June of 2004) without any examples of other similar projects that they have been able to complete in that time frame. The failure to provide realistic time lines for implementation of condemnation alternative 6 (d) in light of the numerous "red light" and "worse" ratings in Tables 8, 9, and 10, and despite the Tribe's warnings, violates the requirements of NEPA.

5) New/Modified Project Cooperation Agreement (PCA)

The Final GRR/SEIS does not realistically layout the steps, time line, and associated risks of alternative 6 (d).

6) Condemnation Authority

The Corps did not respond to the Tribe's contention that the Corps does not have condemnation authority for alternative 6 (d), which will require the acquisition of 602 owner parcels. (GRR/SEIS, D-10). The Tribe warned that if there is even one unwilling seller, the Corps would need condemnation authority. The Corps is aware that there are many unwilling sellers in this predominantly Hispanic community. The United Property Owners and Friends of the 8.5 SMA have presented the Corps with over 100 forms stating they are unwilling to sell, and their unwillingness to sell has been widely reported. (Attachment O, newspaper articles on unwilling sellers.) The Corps realized that these unwilling sellers caused an implementation problem for their "rubber stamp" alternative, so rather than address and analyze this issue, the Corps decided to arbitrarily and capriciously remove all unwilling sellers as a performance measure from the Final GRR/SEIS. (Final GRR Section 4.7, page 46 and 49). The Corps knew that acknowledging this important performance measure would cause them to have to address the fact that they do not have condemnation authority and the significant time it would take them to obtain it. The Corps' excuse was that time constraints prevented them from conducting a survey of the affected area. The Corps had merely to turn to the signed unwilling seller sheets that were given to them in public comment to know that they had a problem and need for such a survey. Yet, the Corps who had almost a year to conduct a survey of this small geographical area, knew that further evidence of unwilling sellers would have caused them to reject the District's selected alternative 6 (d) as unreasonable and unimplementable, and so they chose to omit all relevant information on unwilling sellers from their Final GRR/SEIS. The Corps' failure to provide known information on unwilling sellers in the Final GRR/SEIS; and to layout the steps, time line, and risks

associated with the condemnation of "unwilling sellers" associated with alternative 6 (d) is a violation of NEPA.

7) Environmental Justice

The Tribe advised the Corps in their Draft comments that the Draft SEIS contained numerous offensive and discriminatory statements about the 8.5 SMA, such as "illegal" immigrants and "illegal" and a pejorative statements about community cohesiveness such as, 'for whatever social or economic reason, their loyalties lie elsewhere. ' (Draft EIS p. 15). The Tribe also commented about the fact that the Corps had even arbitrarily concluded that there are only 208 residences by invading the residents' privacy through the searching of mail records to see who received mail every day, not realizing that many of the people who live in the area receive their mail at a post office box. (Draft EIS p. 5) Although the Corps deleted references to 'illegal' in their Final GRR/SEIS after the Tribe made their comments, evidence of their attitude toward this minority community still remains. The failure to address and consider the more than a hundred signed forms of residents who state that they are unwilling sellers by claiming their signed statements are "unreliable" is discriminatory, offensive, and dehumanizing. In fact, anthropologists could find evidence of a discriminatory intent toward both the residents and the Tribe in Table 9 in the Final GRR/SEIS that wipe out any evidence of "unwilling sellers" and refuse to quantify any damages to Tribal lands caused by delay. Finally, the Final GRR/SEIS fails to adequately address the affirmative duty described in Executive Order 12898 and federal civil rights laws not to create disproportionate and undue burdens on minorities, such as the 8.5 SMA, and the Miccosukee Tribe, especially when there are alternatives that would not create such impacts.

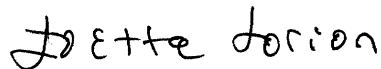
8) Use of Confusing, Conflicting and Unreliable Data: Although the Corps has corrected some of the inconsistencies the Tribe pointed out in the Draft, they continue to create arbitrary distinctions between residents and non-residents and appear continue to rely on flawed DERM data that improperly classifies 264 residences on agricultural land as agricultural instead of residential. It is still unclear as to the exact number of residences, which range from 321 (the property appraiser data) to 514. And, the number of residences that will be relocated for alternative 6 (d) ranges from 35 residences to 107 "residential structures" or 87 residential units, apparently depending on which figure is more favorable to the Corps' argument at the time. The fact that the Corps continues to use DERM data that they know is flawed, including demographic information and elevation maps, while refusing to use demographic information provided by the Tribe, is arbitrary and capricious. Finally, the Corps continues to improperly use DERM water quality data that was taken after Hurricane Irene, which the Corps knows is not legally sufficient and could not be used in a court of law. Yet, the Corps continues to use this data in the Final GRR/SEIS. The Corps is required under NEPA to verify the validity of this information.

**"FIRST-THE-VERDICT, THEN-THE-TRIAL" PROCESS VIOLATES NEPA
AND WILL RESULT IN INCREASED EVERGLADES DESTRUCTION**

Having already committed to conduct an SEIS process so that the local sponsor, the South Florida Water Management District, could select an LPA, the Corps merely "rubber stamped" the Governing Board's June 15, 2000 decision. In fact, the Final SEIS/GRR is a classic Alice in Wonderland case of first-the-verdict, then-the-trial. Under NEPA, the Corps has a duty to conduct a fair and objective evaluation free from any taint. If they had done so, the only reasonable conclusion that could be reached from the document would be that the federally authorized Corps plan/ concept, championed by the wise Congressman Fascell, continues to be the preferred alternative. But instead of conducting a fair and objective SEIS, the Corps chose to "rubber stamp" an unimplementable and illegal alternative that was prejudged by the fatally defective process that they conducted.

By improperly delegating their decision making authority and admittedly conducting an alleged and illegal NEPA process so that the SFWMD could select an LPA, and by doing so through an improper segmentation of a federal project, the Corps failed to take a hard look at the environmental consequences of their actions in violation of NEPA. The Miccosukee Tribe of Indians of Florida believes that this decision made on politics, rather than on the fair and objective evaluation required under NEPA, will result in more delay and destruction of Tribal Everglades, and in all likelihood, the be end of the Everglades restoration process.

Sincerely,



Joette Lorion
Government Affairs

cc Chairman Billy Cypress

AUDUBON OF FLORIDA

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September 1, 2000

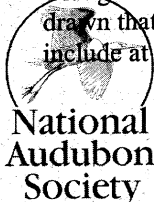
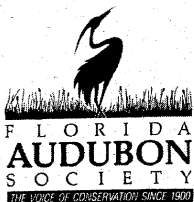
Mr. Elmar Kurzbach
Department of the Army
Jacksonville District of the Corps of Engineers
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Jacksonville, FL 32232-0019
Attn: Planning Division, environmental Branch

This letter serves as an addendum to the comments of Audubon of Florida previously submitted May 24, 2000. After considering the completed General Reevaluation Report and Final Supplemental Environmental Impact Statement, please find enclosed our additional comments.

Several problems still exist with the implementation of Alternative 6D, which need to be addressed. Namely, what will become of the residents that will live between the canal and levee that experience continued flooding and/or impacts due to higher groundwater levels resulting from the construction of the 8.5 SMA structural solution? Also, how will those impacts be offset and will there be a Federal fund established to address those impacts? Finally, what is the process that now takes place, will congressional authorization be needed to proceed with a more expensive alternative? Will this slow the process? What does it mean the Governing Board selected an "optimal plan" versus a locally preferred alternative (LPA)? Many of these questions remain unanswered in the Final EIS/GRR.

General comments:

- Volume 1, GRR-14, this section falls short of actually showing the meaning of the Governing Board's decision to recommend an "optimal plan" versus an LPA. This distinction needs to be clarified.
- Volume 1, GRR-103, the Financial Analysis section should include a discussion on how the Federal funding commitment will be secured. What is the process? Is further congressional authorization necessary, and if so, when will this take place? On page 104, the document lists various Federal statutory provisions that must be complied with, but there is no mention of when the document will be finalized and once that takes place, there is no outline of the process that will secure the funding sources. This information is critical to ensure that the project timeline can be met.
- Volume 3, Appendix C-68, it states that, "all alternatives can be constructed by December 2003", does this statement take into account the almost certain legal challenges to ensue from the final action?
- Volume 4, Appendix G- 91-98, Final CAR, page 97 discusses the need for avoidance and minimization of wetland impacts as part of the final design of the levee. Avoidance and minimization of impacts due to canal construction must also be addressed. This section then continues on to discuss the need for compensatory wetland mitigation for impacts associated with construction and operations. The document states that mitigation will be achieved in accordance with guidance provided in Table 20. Inexplicably, on page 98 of the document, a conclusion is drawn that alternatives 4, 5, 6B, 6D, 7, or 8 do not require mitigation. All of these alternatives include at least some direct filling of wetlands, and 6B and 6D include substantial filling of



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IN PARTNERSHIP WITH 45 LOCAL AUDUBON CHAPTERS

wetlands for dike construction and substantial wetland destruction for canal excavation. Wetland mitigation should be required for these direct wetland losses.

- Volume 4, Appendix H-5, comments from Miami-Dade County state that local costs are a continued concern of the County. The response of the Corps merely states that "... the goal of flood mitigation for this project is to allow no increase in flooding above what existed prior to the MWD project. It does not *necessarily* provide an increased level of flood protection." This response from the Corps does not foreclose that ancillary flood protection benefits are *not* provided. This response is neither clear nor definitive. If any increased level is achieved beyond 1 in 10 year event standard, the density will increase, thus exacerbating the problems of the area. The Corps should explore to a substantial certainty, that no additional flood protection will be provided, not that "... it [will] not *necessarily* provide an increased level of flood protection". Thus local costs associated with the various alternatives should be quantified and included in the analysis.
- Volume 1, GRR-51, the GRR states that "Alternative 6D provides flood protection for areas east of the proposed levee except for an area of approximately 546 acres. Consequently, flowage easements are used for those areas which do not receive flood mitigation by structural features." Will flowage easements sufficiently address this increased flooding impact and if not, are funds available to purchase the parcels in fee? In light of the fact that a flowage easements costs substantially the same as a fee simple purchase, will this option be available for those residents adversely impacted that want to sell, provided from Federal funding sources?

Specific comments:

- Volume 2, Appendix A, Figure 39, the model hydrograph for Alternative 6D indicates that flooding impacts (in excess of the 1983 Base) are likely to result near the FAA property. Therefore, in this area, the flood mitigation requirement is not met. This issue has been raised in AOF's previous comments and still has not been resolved through the use of either acquisition or purchase of flowage easements. How does the Corps intend to resolve this issue of the parcels near of the FAA property?
- Volume 2, Appendix A, Figures 59 and 65, while not the Federally recommended plan, it still should be noted that when alternative 6C provides water stages in ENP (at locations represented by these indicator cells) that are generally lower (mostly during weeks 23 to 46) than those provided by Alternative 1. For this reason, this alternative does not meet the requirement for avoiding negative impacts to higher stages in ENP.

Modeling comments:

The following discussion is related to the modeling efforts that were conducted by the United States Army Corps of Engineers (USACE) during the development of the Final General Reevaluation Report and Supplemental Environmental Impact Statement (GRR/SEIS) that were not included in the Draft version of the GRR/SEIS. The following section is dedicated to the evaluation of alternatives 6C and 6D relative to three project requirements:

- Flood protection for areas east of the L-31N
- Flood mitigation/protection for the 8.5 SMA
- No adverse impacts to high stages in ENP

Each project requirement is provided with a separate section. Stage hydrographs for selected indicator cells were reviewed and evaluated according to guidance provided in the GRR/SEIS. General observations and conclusions are described for each modeled alternative. For each modeled alternative, a more detailed description of observations is provided in tabular format.

Impacts to High Stages in ENP - Alternative 6C

The following evaluation was conducted to ascertain if Alternative 6C negatively impacts higher stages in ENP as specified in the Modified Water Deliveries project. This evaluation process included the review of model hydrographs from weekly average groundwater stage for indicator cells within ENP. For each of the referenced indicator cells, Alternative 6C high-stages were compared against high-stages anticipated to result from the authorized Modified Water Deliveries project. If Alternative 6C high-stages were generally lower than high-stages anticipated to result from the authorized Modified Water Deliveries project (i.e.: negatively impacting higher stages in ENP), it was determined that the Alternative did not meet the federal requirement for avoiding negative impacts to higher stages in ENP.

Based on the above-referenced review, it appears that Alternative 6C adversely impacts higher water stages in ENP (north and northwest of proposed structures) and therefore appears not to meet the requirement for avoiding negative impacts to higher stages in ENP. Table 1a provides a summary of observations made during the evaluation process. Please see Appendix A of the GRR/SEIS for additional details and relevant hydrographs.

Table 1a: ENP High-Stage Evaluation for Alternative 6C

Scenario: D13Rbc_Plan6C_95_95ops			
Indicator Cell Number	Appendix A Figure Number	Requirement Met (Yes/No)	Comparison to D13Rbc_Plan1_95_95ops
19990	58	Yes	• Stages during weeks 1-52 are generally similar.
20206	65	No	• Stages during weeks 1-21 are generally similar. • Stages during weeks 22-52 are generally 0.1 to 0.2 ft lower.
20357	64	Yes	• Stages during weeks 1-52 are generally similar.
20378	59	No	• Stages during weeks 1-21 are generally 0.0 to 0.4 ft higher. • Stages during weeks 22-52 are generally 0.1 to 0.2 ft lower.
20457	27	Yes	• Stages during weeks 1-52 are generally similar.
20726	30	Yes	• Stages during weeks 1-22 are generally 0.1 ft higher. • Stages during weeks 23-52 are generally similar.
20980	31	Yes	• Stages during weeks 1-52 are generally 0.5 ft higher.
21271	55	Yes	• Stages during weeks 1-52 are generally 0.5 ft higher.
22335 (CSSS F)	36	Yes	• Stages during weeks 1-52 are generally 0.3 to 0.5 ft higher.
24577	60	Yes	• Stages during weeks 1-52 are generally 0.1 ft higher.
24587	61	Yes	• Stages during weeks 1-52 are generally 0.1 to 0.2 ft higher.

Impacts to High Stages in ENP - Alternative 6D

The following evaluation was conducted to ascertain if Alternative 6D negatively impacts higher stages in ENP as specified in the Modified Water Deliveries project. This evaluation process included the review of model hydrographs from weekly average groundwater stage for indicator cells within ENP. For each of the referenced indicator cells, Alternative 6D high-stages were compared against high-stages anticipated to result from the authorized Modified Water Deliveries project. If Alternative 6D high-stages were generally lower than high-stages anticipated to result from the authorized Modified Water Deliveries project (i.e.: negatively impacting higher stages in ENP), it was determined that the Alternative did not meet the federal requirement for avoiding negative impacts to higher stages in ENP.

Based on the above-referenced review, it appears that Alternative 6D does not adversely impact higher water stages in ENP and therefore appears to meet the requirement for avoiding negative impacts to higher stages in ENP. Table 1b provides a summary of observations made during the evaluation process. Please see Appendix A of the GRR/SEIS for additional details and relevant hydrographs.

Table 1b: ENP High-Stage Evaluation for Alternative 6D

Scenario: D13Rbc_Plan6D_95_95ops			
Indicator Cell Number	Appendix A Figure Number	Requirement Met (Yes/No)	Comparison to D13Rbc_Plan1_95_95ops
19990	58	Yes	• Stages during weeks 1-52 are generally 0.1 ft higher.
20206	65	Yes	• Stages during weeks 1-52 are generally 0.3 ft higher.
20357	64	Yes	• Stages during weeks 1-52 are generally 0.2 ft higher.
20378	59	Yes	• Stages during weeks 1-52 are generally 0.3 ft higher.
20457	27	Yes	• Stages during weeks 1-52 are generally 0.2 to 0.3 ft higher.
20726	30	Yes	• Stages during weeks 1-52 are generally 0.3 ft higher.
20980	31	Yes	• Stages during weeks 1-52 are generally 0.1 to 0.2 ft higher.
21271	55	Yes	• Stages during weeks 1-21 are generally 0.3 to 0.5 ft higher. • Stages during weeks 22-52 are generally 0.4 ft higher.
22335 (CSSS F)	36	Yes	• Stages during weeks 1-19 are generally 0.3 to 0.6 ft higher. • Stages during weeks 20-52 are generally 0.3 ft higher.
24577	60	Yes	• Stages during weeks 1-52 are generally 0.1 ft higher.
24587	61	Yes	• Stages during weeks 1-52 are generally 0.1 to 0.2 ft higher.

Impacts to Water Levels in the 8.5 SMA - Alternative 6C

The following evaluation was conducted to ascertain if Alternative 6C meets the federal requirement for flood mitigation. It should be noted that this plan was designed by the USACE with the intent of providing flood mitigation, not full 1 in 10 year flood protection, to remaining 8.5 SMA residents. The evaluation process included the review of model hydrographs from weekly average groundwater stage for relevant indicator cells. For each of the referenced indicator cells, Alternative 6C stages were compared against Base 83 stages. If Alternative 6C stages were generally higher than Base 83 stages (i.e.: negatively impacting Base 83 stages) and water levels simultaneously exceeded ground elevation, it was determined that the Alternative did not meet the federal requirement for flood mitigation. For the purposes of this evaluation, cells 20737 and 20743 (8.5 SMA wetland indicator cells) were discussed, but not evaluated relative to the flood mitigation requirement. However, due to decreased water, functional wetlands represented by these cells will likely experience adverse impacts when compared to existing conditions.

Based on the above-referenced review, it appears that Alternative 6C generally meets the flood mitigation requirement of the project with the exception of indicator cell 21007. However, Indicator cell 21007 appears to be located west of proposed structures, west of the area provided with flood mitigation.

Table 2a provides a summary of observations made during the evaluation process. Please see Appendix A of the GRR/SEIS for additional details and relevant hydrographs.

Table 2a: Flood Mitigation Evaluation for Alternative 6C

Scenario: D13Rbc_Plan6C_95_95ops			
Indicator Cell Number	Appendix A Figure Number	Requirement Met (Yes/No)	Comparison to Base83bc_Exist_95_83ops
20477	39	Yes	<ul style="list-style-type: none"> Stages during weeks 1-20 are generally 0.1 to 0.5 ft lower. Stages during weeks 21-52 are generally 1.0 to 1.5 ft lower. Stages remain below ground elevation or Base 83 stages.
20838	40	Yes	<ul style="list-style-type: none"> Stages during weeks 1-23 are generally 0.1 to 1.1 ft higher. Stages during weeks 24-52 are generally 0.0 to 0.2 ft lower. Stages remain below ground elevation or Base 83 stages.
20925	42	Yes	<ul style="list-style-type: none"> Stages during weeks 1-21 are generally 0.1 to 0.3 ft higher. Stages during weeks 22-52 are generally 0.5 to 1.0 ft lower. Stages remain below ground elevation or Base 83 stages.
21007	44	NA	<ul style="list-style-type: none"> Stages during weeks 1-21 are generally 0.1 to 1.0 ft higher. Stages during weeks 22-52 are generally 1.0 to 1.4 ft lower. Stages exceed Base 83 conditions and ground elevation during weeks 3-13, 17, and 19.
21017	41	Yes	<ul style="list-style-type: none"> Stages during weeks 1-21 are generally 0.1 to 1.0 ft higher. Stages during weeks 22-52 are generally 0.2 ft lower. Stages remain below ground elevation or Base 83 stages.
20737 (WRAP)	28	NA	<ul style="list-style-type: none"> Stages during weeks 1-21 are generally 0.1 to 0.4 ft higher. Stages during weeks 22-52 are generally 0.5 to 1.0 ft lower. Stages remain below ground elevation or Base 83 stages. Functioning wetlands represented by this cell would likely experience adverse impacts when compared to existing conditions.
20743 (WRAP)	29	NA	<ul style="list-style-type: none"> Stages during weeks 1-21 are generally 0.1 to 0.4 ft lower. Stages during weeks 22-52 are generally 0.5 to 1.5 ft lower. Stages remain below ground elevation or Base 83 stages. Functioning wetlands represented by this cell would likely experience adverse impacts when compared to existing conditions.

Impacts to Water Levels in the 8.5 SMA - Alternative 6D

The following evaluation was conducted to ascertain if Alternative 6D meets the federal requirement for flood mitigation. It should be noted that this plan was designed by the USACE with the intent of providing flood mitigation to remaining 8.5 SMA residents. The evaluation process included the review of model hydrographs from weekly average groundwater stage for relevant indicator cells. For each of the referenced indicator cells, Alternative 6D stages were compared against Base 83 stages. If Alternative 6D stages were generally higher than Base 83 stages (i.e.: negatively impacting Base 83 stages) and water levels simultaneously exceeded ground elevation, it was determined that the Alternative did not meet the federal requirement for flood mitigation. For the purposes of this evaluation, if it was determined that the project did not meet federal requirements for flood mitigation, it was also determined that the project did not meet the higher standard of flood protection. For the purposes of this evaluation, cells 20737 and 20743 (8.5 SMA wetland indicator cells) were discussed, but not evaluated relative to the flood mitigation requirement. However, due to decreased water, functional wetlands represented by these cells will likely experience adverse impacts when compared to existing conditions.

Based on the above-referenced review, it appears that Alternative 6D does not meet the flood mitigation requirement of the project due to persistent flooding problems in the northeastern portion of the 8.5 SMA intended to be provided with flood mitigation (represented by indicator cell 20477). With the exception of land represented by indicator cells 20477 (near the FAA property) and 21007 Alternative 6D appears to achieve flood mitigation requirements of the project.

Table 2b provides a summary of observations made during the evaluation process. Please see Appendix A of the GRR/SEIS for additional details and relevant hydrographs.

Table 2b: Flood Mitigation Evaluation for Alternative 6D

Scenario: D13Rbc_Plan6D_95_95ops			
Indicator Cell Number	Appendix A Figure Number	Requirement Met (Yes/No)	Comparison to Base83bc_Exist_95_83ops
20477	39	No	<ul style="list-style-type: none"> Stages during weeks 1-20 are generally 0.5 to 1.0 ft higher. Stages during weeks 21-52 are generally 0.1 to 0.3 ft higher. Stages tend to exceed ground elevation and Base 83 stages during weeks 21 to 51. Flooding duration is approximately 4 weeks longer than Base 83 conditions (Weeks 21, and 49-51).
20838	40	Yes	<ul style="list-style-type: none"> Stages during weeks 1-23 are generally 0.2 to 1.2 ft higher. Stages during weeks 24-52 are generally 0.1 to 0.5 ft lower. Stages remain below ground elevation or Base 83 stages.
20925	42	Yes	<ul style="list-style-type: none"> Stages during weeks 1-21 are generally 0.2 to 0.6 ft higher. Stages during weeks 22-52 are generally 0.7 to 1.5 ft lower. Stages remain below ground elevation or Base 83 stages.
21007	44	NA	<ul style="list-style-type: none"> Stages during weeks 1-21 are generally 1.3 to 1.5 ft higher. Stages during weeks 22-52 are generally similar. Stages exceed Base 83 conditions and ground elevation during weeks 1 to 27. Flooding duration is approximately 14 weeks longer than Base 83 conditions (Weeks 6 to 20).
21017	41	Yes	<ul style="list-style-type: none"> Stages during weeks 1-21 are generally 0.2 to 1.0 ft higher. Stages during weeks 22-52 are generally 0.2 to 0.6 ft lower. Stages remain below ground elevation or Base 83 stages.
20737 (WRAP)	28	NA	<ul style="list-style-type: none"> Stages during weeks 1-23 are generally 1.0 to 1.3 ft higher. Stages during weeks 24-52 are generally similar. Stages exceed Base 83 conditions and ground elevation during weeks 1 to 14, 18, and 21 to 27. Flooding duration is approximately 17 weeks longer than Base 83 conditions (Weeks 1 to 15, 19, and 21).
20743 (WRAP)	29	NA	<ul style="list-style-type: none"> Stages during weeks 1-20 are generally 0.0 to 0.5 ft higher. Stages during weeks 21-52 are generally 0.7 to 1.2 ft lower. Functioning wetlands represented by this cell would likely experience adverse impacts when compared to existing conditions.

Impacts to Water Levels for Areas East of the L-31N - Alternative 6C

The following evaluation was conducted to ascertain if Alternative 6C adversely impacts existing levels of flood protection in areas east of L-31N. The evaluation process included the review of model hydrographs from weekly average groundwater stage for indicator cells east of L-31N. For each of the referenced indicator cells, Alternative 6C stages were compared against Base 95 stages. If Alternative 6C stages were generally higher than Base 95 stages (i.e.: negatively impacting Base 95 levels of flood protection), it was determined that the Alternative adversely impacted existing levels of flood protection.

Based on the above-referenced review, it appears that Alternative 6C adversely impacts flood protection for areas east of L-31N. In general, the increased periods of inundation experienced under Alternative 6C occur during the first 20 weeks. It should be noted that each alternative exhibits similar periods of inundation and water depths for each of the indicator cells. As indicated in Appendix A of the GRR/SEIS, these impacts appear not to be directly attributable to individual 8.5 SMA alternatives. Table 3a provides a summary of observations made during the evaluation process. Please see Appendix A of the GRR/SEIS for additional details and relevant hydrographs.

Table 3a: Flood Protection Evaluation for Alternative 6C

Scenario: D13Rbc_Plan6C_95_95ops			
Indicator Cell Number	Appendix A Figure Number	Increased Period of Inundation (Yes/No)	Comparison to Base95bc_Exist_95_95ops
20031	49	Yes	<ul style="list-style-type: none">• Stages during weeks 1-20 are generally between 0.0 and 1.0 feet higher.• Stages during weeks 21-52 are generally similar.
20036	50	No	<ul style="list-style-type: none">• Stages during weeks 1-20 are generally between 0.2 to 1.1 ft higher.• Stages during weeks 21-52 are generally similar.
20390	51	Yes	<ul style="list-style-type: none">• Stages during weeks 1-20 are generally between 0.2 to 0.9 ft higher.• Stages during weeks 21-52 are generally 0.0 to 0.2 ft lower.
20396	52	No	<ul style="list-style-type: none">• Stages during weeks 1-16 are generally between 0.4 ft lower to 0.5 ft higher.• Stages during weeks 17-52 are generally similar.
20931	53	No ¹	<ul style="list-style-type: none">• Stages during weeks 1-20 are generally between 0.2 to 0.7 ft higher.• Stages during weeks 21-52 are generally similar to 0.1 ft lower.
20936	54	Yes ²	<ul style="list-style-type: none">• Stages during weeks 1-19 are generally between 0.2 and 0.5 ft higher.• Stages during weeks 20-52 are generally similar.

¹ During week 26, water stages are very near ground elevation, but appear not to exceed it.

² During week 26, water stages are approximately very near ground surface, exceeding ground elevation by less than or equal to 0.1 ft.

Impacts to Water Levels for Areas East of the L-31N - Alternative 6D

The following evaluation was conducted to ascertain if Alternative 6D adversely impacts existing levels of flood protection in areas east of L-31N. The evaluation process included the review of model hydrographs from weekly average groundwater stage for indicator cells east of L-31N. For each of the referenced indicator cells, Alternative 6D stages were compared against Base 95 stages. If Alternative 6D stages were generally higher than Base 95 stages (i.e.: negatively impacting Base 95 levels of flood protection), it was determined that the Alternative adversely impacted existing levels of flood protection.

Based on the above-referenced review, it appears that Alternative 6D adversely impacts flood protection for areas east of L-31N. In general, the increased periods of inundation experienced under Alternative 6D occur during the first 20 weeks. It should be noted that each alternative exhibits similar periods of inundation and water depths for each of the indicator cells. As indicated in Appendix A of the GRR/SEIS, these impacts appear not to be directly attributable to individual 8.5 SMA alternatives. Table 3b provides a summary of observations made during the evaluation process. Please see Appendix A of the GRR/SEIS for additional details and relevant hydrographs.

Table 3b: Flood Protection Evaluation for Alternative 6D

Scenario: D13Rbc_Plan6D_95_95ops			
Indicator Cell Number	Appendix A Figure Number	Increased Period of Inundation (Yes/No)	Comparison to Base95bc_Exist_95_95ops
20031	49	Yes	<ul style="list-style-type: none">• Stages during weeks 1-20 are generally between 0.0 and 1.2 feet higher.• Stages during weeks 21-52 are generally similar.
20036	50	No	<ul style="list-style-type: none">• Stages during weeks 1-20 are generally between 0.2 to 1.1 ft higher.• Stages during weeks 21-52 are generally similar.
20390	51	Yes	<ul style="list-style-type: none">• Stages during weeks 1-20 are generally between 0.4 to 1.2 ft higher.• Stages during weeks 21-52 are generally similar.
20396	52	No	<ul style="list-style-type: none">• Stages during weeks 1-16 are generally between 0.1 to 0.6 ft higher.• Stages during weeks 17-52 are generally similar.
20931	53	No	<ul style="list-style-type: none">• Stages during weeks 1-20 are generally between 0.2 to 0.9 ft higher.• Stages during weeks 21-52 are generally similar to 0.1 ft lower.
20936	54	Yes ³	<ul style="list-style-type: none">• Stages during weeks 1-19 are generally between 0.2 and 0.5 ft higher.• Stages during weeks 20-52 are generally similar.

³ During week 26, water stages are approximately very near ground surface, exceeding ground elevation by less than or equal to 0.1 ft.

Project Requirement Summary

The following table summarizes the performance of the non-structural alternatives (4,5, and 7), and alternatives 6C and 6D (which were developed in response to input received during the public comment period for the draft GRR/SEIS).

In general, observed alternative-related impacts can be summarized as follows:

- Alternative 6C adversely impact high stages in ENP west and northwest of proposed structures).
- Alternative 6D provides flood mitigation to the protected portion of the 8.5 SMA with the exception of the northeastern portion of the 8.5 SMA near the FAA property (Flood mitigation is not achieved for this area). Additionally, it is noted that seasonal elevated groundwater levels can be anticipated for areas between the western levee and drainage canal associated with Alternative 6D (although the criteria of remaining below ground level and/or Base 83 conditions is met in this area).
- Each Alternative resulted in impacts to areas east of the L-31N. In general, the increased periods of inundation experienced under Alternative 6D occur during the first 20 weeks. It should be noted that each alternative exhibits similar periods of inundation and water depths for each of the indicator cells. As indicated in the GRR/SEIS these impacts appear to be the result of modeled regional influences and not necessarily the direct result of the 8.5 SMA component.

Table 4: Project Requirement Summary Table

Scenario: D13Rbc [alternative] 95_95ops				
Project Requirement	Indicator Cell Number	Alternatives 4, 5, 7	Alternative 6C	Alternative 6D
		Condition Met (yes/no)	Condition Met (yes/no)	Condition Met (yes/no)
High Stages	19990	Yes	Yes	Yes
	20206	Yes	No	Yes
	20357	Yes	Yes	Yes
	20378	Yes	No	Yes
	20457	Yes ⁴	Yes	Yes
	20726	Yes ⁴	Yes	Yes
	20980	Yes	Yes	Yes
	21271	Yes	Yes	Yes
	22335 (CSSS F)	Yes	Yes	Yes
	24577	Yes	Yes	Yes
	24587	Yes	Yes	Yes
8.5 SMA Flood Mitigation/Protection	20477	Yes	Yes	No
	20838	Yes	Yes	Yes
	20925	Yes	Yes	Yes
	21007	Yes	NA	NA
	21017	Yes	Yes	Yes
	20737 (WRAP)	NA	NA	NA
	20743 (WRAP)	NA	NA	NA
East of L-31N Flood Protection (Hydroperiod/ Water Levels)	20031	No/No	No/No	No/No
	20036	Yes/No	Yes/No	Yes/No
	20390	No/No	No/No	No/No
	20396	Yes/No	Yes/No	Yes/No
	20931	Yes ⁵ /No	Yes ⁶ /No	Yes ⁷ /No
	20936	No ⁸ /No	No ⁹ /No	No ¹⁰ /No

While AOF completed it's initial analysis on the Alternatives that was previously submitted to the ACOE, we analyzed how the alternatives met the objectives and requirements outlined for the completion of the EIS process. It was clear that Alternatives 4, 5 and 6B met those objectives and requirements better than the other alternatives. And, it is now clear that Alternative 6D, an iteration of 6B, lessens the hydrologic impact of 6B, but provides a dangerous policy precedent that will likely impact Everglades restoration as a whole.

This policy precedent is that decision-makers will engineer around people and development. While politically this philosophy is preferable, and from an engineering standpoint able to be implemented, there may be cases in the near future when making this decision will not be healthiest solution for the system and the future of restoration and our future water supply. This decision sets the precedent that development in inappropriate places, vested or not, will be accommodated throughout the restoration process and the loss

⁴ Observed lower water stages occurred during the dry-season. Higher water stages were not negatively impacted.

⁵ During week 26, water stages are very near ground elevation, but appear not to exceed it.

⁶ During week 26, water stages are very near ground elevation, but appear not to exceed it.

⁷ During week 26, water stages are very near ground elevation, but appear not to exceed it.

⁸ During week 26, water stages are approximately very near ground surface, exceeding ground elevation by less than or equal to 0.1 ft.

⁹ During week 26, water stages are approximately very near ground surface, exceeding ground elevation by less than or equal to 0.1 ft.

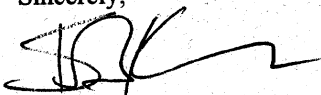
¹⁰ During week 26, water stages are approximately very near ground surface, exceeding ground elevation by less than or equal to 0.1 ft.

of wetlands and potential impacts associated with urban development closest to the pristine parts of the system, will be tolerated. For instance, there is no resolution for properties between the canal and levee that stand to be impacted by continued inundation and/or increased groundwater elevations between the canal and levee which will now be accommodated and allowed to remain. This sets a dangerous precedent for areas, such as those "stair-step area" in the Lakebelt. The implementation of this Alternative will provide the most expedient solution, but at a cost that could lead to future development in this area and a policy stance that opens the door for decisions that provide less protection for the natural system.

Recommendations:

- Clarify the meaning of the "optimal plan" decision and what this means in terms of local sponsorship and choosing an LPA.
- Since expediting the Modified Waters Delivery project is a concept almost all stakeholders agree upon, explain how timelines will be met with the almost certain litigation to ensure from the EIS process.
- Include local costs for all alternatives because the ACOE's responses to Miami-Dade County's comments do not clearly state that additional flood protection will not be provided, rather the response states, "It does not *necessarily* provide an increased level of flood protection". Coordination with Miami-Dade County on this issue is paramount because any increase in flood protection to the point of achieving 1 in 10 year protection creates an increase in density and an increase County costs associated with servicing the area.
- Wetland mitigation should be required for direct wetland losses and not merely discounted because "project benefits" far outweigh impacts to wetlands from project construction..
- State a clear position on the obvious design problems associated with the large separation between the canal and levee and the fact that this separation creates flooding impacts specifically to residents around the FAA property.
- The ACOE, with participation from other government agencies, should look at creating a fund for acquisition of properties between the canal and levee that will experience increased flooding conditions due to operations or the alignment of the canal and levee.
- Explain the relationship between ACOE, Park and SFWMD on developing the operational schedule and how will conflicts be resolved. Please state specific timelines on when this operational plan is to be completed.
- Please state the process for securing Federal dollars for the increased costs associated with the implementation of the 6D Alternative. Will congressional authorization be needed and what is the timeframe for this to take place.

Sincerely,



Shawn Komlos
Staff Scientist



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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JEB BUSH
Governor

STEVEN M. SEIBERT
Secretary

September 18, 2000

Mr. Elmar Kurzbach
Department of the Army
Jacksonville District Corps of Engineers
Post Office Box 4970
Jacksonville, Florida 32232-0019

RE: Department of the Army - District Corps of Engineers - July 2000 - General
Reevaluation Report and Final Supplemental Environmental Impact Statement,
Including Appendices A-H - Modified Water Deliveries to Everglades National
Park, Addressing the 8.5 Square Mile Area (SMA) Feature - Central and Southern
Florida Project
SAI: FL199810150676CR4

Dear Mr. Kurzbach:

The Florida State Clearinghouse, pursuant to Presidential Executive Order 12372,
Gubernatorial Executive Order 95-359, the Coastal Zone Management Act, 16 U.S.C. §§ 1451-
1464, as amended, and the National Environmental Policy Act, 42 U.S.C. §§ 4321, 4331-4335,
4341-4347, as amended, has coordinated a review of the above-referenced project.

The Florida Fish and Wildlife Conservation Commission (FWC) offers several comments
regarding the proposed rule and concurs that revisiting the area currently designated as Critical
Habitat is warranted. In addition, since a portion of one of the subpopulations occurs on the
Southern Glades Wildlife and Environmental Area, which the FWC manages, the U.S. Fish and
Wildlife Services if being provided with the results of the FWC surveys for the sparrow under
separate cover. Please refer to the enclosed FWC comments.

Based on the information contained in the above-referenced proposed rule and the
enclosed comments provided by our reviewing agencies, the state has determined that the above-
referenced action is consistent with the Florida Coastal Management Program. Enclosed are all
comments received to date from our reviewing agencies. Comments subsequently received by
the State Clearinghouse will be forwarded for your review.

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100

Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781

Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE
2796 Overseas Highway, Suite 212
Marathon, FL 33050-2227
(305) 289-2402

COMMUNITY PLANNING
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-2356

EMERGENCY MANAGEMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 413-9969

HOUSING & COMMUNITY DEVELOPMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-7956

Mr. Elmar Kurzbach
September 18, 2000
Page Two

The Department of Agriculture and Consumer Services (DACS) has submitted several comments regarding the SEIS. Please refer to the enclosed DACS comments.

The South Florida Water Management District (SFWMD) offers a number of comments, findings, and recommendations regarding the proposed General Reevaluation/SEIS and finds the proposed actions to be consistent with its authorities under Chapter 373, Florida Statutes. Please refer to the enclosed SFWMD comments.

Based on the information contained in the above-referenced SEIS and the enclosed comments provided by our reviewing agencies, the state has determined that the above-referenced action is consistent with the Florida Coastal Management Program.

Thank you for the opportunity to review the final SEIS. If you have any questions regarding this letter, please contact Ms. Cherie Trainor, Clearinghouse Coordinator, at (850) 414-5495.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Cantral", with a stylized flourish at the end.

Ralph Cantral, Executive Director
Florida Coastal Management Program

RC/cc

Enclosures

cc: Ernie Barnett, Department of Environmental Protection
Bradley Hartman, Fish and Wildlife Conservation Commission
Janet Snyder Matthews, Department of State
Linda McCarthy, Department of Agriculture and Consumer Services
David Korros, Department of Transportation
Terrie Bates, South Florida Water Management District



Florida Department of Agriculture & Consumer
Services
BOB CRAWFORD, Commissioner

Please Respond to:
Office of Agricultural Water Policy
3125 Conner Boulevard
Suite C, Mail Stop C-28
Tallahassee, FL 32399-1650

September 5, 2000

Florida State Clearinghouse
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
Attn: Ms. Cherie Trainor

SAI# FL199810150676CR4
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SEP 08 2000
State of Florida Clearinghouse

Dear Ms. Trainor,

Please consider the following comments on the draft Environmental Assessment submitted by the U. S. Army Corps of Engineers.

The information presented in the July 2000 8.5 Square Mile Area General Reevaluation Report (GRR) and Final Supplemental Environmental Impact Statement states that the preferred alternative proposes discharging seepage waters through the S-357 pump station into the C-111 buffer area (page 63). This was considered to be consistent with the C-111 project because the discharges supported the concept of a hydrologic buffer. The analysis did not include a determination if the additional volumes of water that will be discharged could be accommodated by the C-111 project. The July 2000 C-111 GRR (SAI# FL199403010133CR2), which was submitted for state review concurrent with this project, also does not address the proposed additional volumes of water. The two projects are inconsistent with each other with regard to this feature.

Modeling results indicate impacts (higher water tables) to agricultural lands east of L-31N would potentially occur with the preferred alternative. The USACE proposes addressing the potential impacts during development of operational protocols to be developed sometime in the future (Table ES-1 and pages 63-64). That approach defers addressing current problems in the area. Operation of the South Dade Conveyance System has been problematic since it was constructed. Most recent conflicts have centered on flood control issues associated with additional water being sent into the system from the north on an "emergency" basis versus operations that are considered to be beneficial for the Cape Sable Seaside Sparrow. It is important to address potential

operational conflicts prior to constructing additional project features that may not function as they are intended.

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, reading "Linda J. McCarthy". The signature is written in a cursive style with a large, stylized "L" and "M".

Linda J. McCarthy
Water Policy Liaison

cc: Chuck Aller
John Folks
Tom MacVicar
Cheryl Ulrich



Jeb Bush
Governor

Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

David B. Struhs
Secretary

August 31, 2000

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SEP 06 2000

State of Florida Clearinghouse

Ms. Cherie Trainor
Florida State Clearinghouse
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Re: Department of the Army, District Corps of Engineers, July 2000, General Reevaluation Report and Final Supplemental Environmental Impact Statement, Including Appendices A-H, Modified Water Deliveries to Everglades National Park, Addressing the 8.5 Square Mile Area (SMA) Feature, Central and Southern Florida Project

SAI: FL199810150676CR4

Dear Ms. Trainor:

This Department has reviewed the above-described project proposal and based on the information provided, we submit the following comments and recommendations.

Background

The Corps of Engineers has selected Alternative 6D (with conditions) as the Recommended Plan to mitigate flooding effects on the 8.5 Square Mile Area (SMA) resulting from implementation of the Modified Water Deliveries Project. The Recommended Plan will convert the western portion of the 8.5 SMA to a buffer area between the developed area and Everglades National Park. The remainder of the 8.5 SMA will be provided flood mitigation as a result of higher water stages from implementation of the Modified Water Deliveries project.

Recommended Plan 6D consists of one perimeter and two interior levees as well as a seepage canal and pump station. The location of the perimeter levee is generally between Alternative 6C (Save Our Rivers boundary line) and Alternative 6B. The seepage canal system runs along 205th Avenue north from 168th Street to 132nd Street, then east along 132nd Street to the L-31N canal.

The seepage collection canal is designed to maintain the groundwater levels within the interior area of the outer levee at the same levels that existed prior to the implementation of the MWD project. Two interior levees, one on either side of the seepage canal are positioned to prevent surface water from directly entering the seepage canal. A proposed pumping structure (S-357) located at the southern terminus of the levee/canal system will discharge seepage through a 96-inch diameter pipe to be released south into a treatment area in or adjacent to the C-111 project area. There will be no major changes to operations of existing structures in the C&SF system resulting from implementation of this alternative.

"More Protection, Less Process"

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The exterior levee on the western boundary of this alternative ranges from approximately 530 to 5545 feet east of the westernmost boundary of the 8.5 SMA, depending on the location along the boundary. This alternative includes approximately 4.5 square miles within its boundaries. To implement the plan a total of 2,335 acres will be purchased fee simple, and flowage easements will be required on another 546 acres. Approximately 35 owner residences and 20 tenants will require relocation.

The estimated cost of the Recommended Plan is \$106,541,230 with the cost for land, easements, and right-of-way needed for construction as well as lands acquired west and north of the perimeter levee the responsibility of the federal government. The Corps will pay 75 percent of the cost for operation and maintenance and the South Florida Water Management District (SFWMD) will pay 25 percent. The SFWMD will pay 100 percent of the cost of the post-construction management of land outside the perimeter levee.

The improved hydrology is predicted to result in a net increase of wetland acreage (7,464 acres) within the 8.5 SMA and the surrounding area of potential affect. Short hydroperiod marl-forming wetland would be reduced by 4,298 acres while long hydroperiod peat-forming wetlands are predicted to increase by 11,762 acres. The reduction in short hydroperiod wetlands appears to be the result of drawdown effects near the canal in addition to shifts towards long hydroperiod wetlands caused by increased hydroperiods. Approximately 130 acres of wetlands will be directly impacted as a result of construction of the levee and canal system.

Comments

1. The Corps has determined that due to the wetland benefits within the 8.5 SMA and surrounding area associated with the implementation of the recommended plan that compensatory mitigation will not be necessary. This assumption seems to be premature since a determination of the extent of dredge and fill activities in waters of the state and the potential to further avoid and minimize impacts to wetlands will be considered under s 373.414, Florida Statutes.

The Corps' assumption that there will be an increase in wetlands associated with construction of the recommended plan is also questionable. Existing wetlands west of the perimeter levee in NESRS will benefit from improved hydropatterns and wetlands will be preserved in the buffer immediately west of the levee. However, these wetlands currently exist. Therefore, there will not be an increase in wetlands as a result of the project. In fact, construction of the levee and canal system will result in the loss of 130 acres of wetlands. These impacts will be evaluated under the Department's permitting process and the need for additional mitigation will be determined.

2. The recommended plan contains several specific conditions, which affect the way the project will be designed, constructed, operated and monitored. One of these conditions requires that the operation of the 8.5 SMA project be detailed in an Operations and Maintenance Manual to be agreed to by the ENP, USFWS, USACE and the SFWMD. As the facility will need a permit from the Department and its operation could effect waters of the state; it is suggested that the Department be added to the list of agencies to prepare the Operations and Maintenance Manual.

Ms. Cherie Trainor
August 31, 2000
Page Three

3. In addition to the items of local cooperation contained in the General Design Memorandum for the Modified Water Deliveries to Everglades National Park, the Corps is requiring the local sponsor (SFWMD) to meet a list of requirements to protect the operation of the project. It can be expected that the construction of the flood mitigation project will induce development potential in the area and lead to an increase in density and intensity of use.

Item (i) requires the local sponsor to prevent future encroachments on the project lands, easements, and right-of-way, which might interfere with proper functioning of the plan. This is an important requirement and one that is intrinsically linked with requirement (k) to prevent unwise future development and to ensure compatibility with mitigation levels provided by the plan.

Both of these requirements will have to be coordinated with Dade County, as land use planning and land development regulations are their responsibility. Of particular concern is the protection of the remaining wetlands or other environmentally sensitive lands (tree islands) east of the perimeter levee. Appropriate zoning and land development regulations should be put in place to protect remaining resources and the planned level of flood mitigation.

4. As mentioned in previous comments on this project, potential water quality impacts remain a concern. The water quality assessment of the FSEIS concludes, "constituents of concern appear to be pesticides, nutrients, and bacteria. Toxic organics and metals do not appear to be a concern, although unidentified problems could exist." The recommended plan calls for water from the seepage canal which is to be constructed as part of the plan to discharge through a 2,000 foot pipeline into a 200-acre treatment area in the C-111 buffer area south of Richmond Drive. The phosphorus concentration is expected to range between 7 ppb and 12 ppb in seepage canal water. In any event, water quality certification for the project will depend on the applicant providing reasonable assurance through water quality data and plans and specifications that state water quality standards for receiving waters will not be violated.

Thank you for the opportunity of commenting on this proposal. If you have any questions regarding this letter please give me a call at (850) 488-4892.

Sincerely,

A handwritten signature in black ink, appearing to read "Ernie Barnett". The signature is fluid and cursive, with the first name "Ernie" and last name "Barnett" clearly distinguishable.

Ernie Barnett,
Director of Ecosystem Projects

EB/jo

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION



JAMES L. "JAMIE" ADAMS, JR.
Bushnell

BARBARA C. BARSH
Jacksonville

QUINTON L. HEDGEPEETH, DDS
Miami

H.A. "HERKY" HUFFMAN
Deltona

DAVID K. MEEHAN
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Sarasota

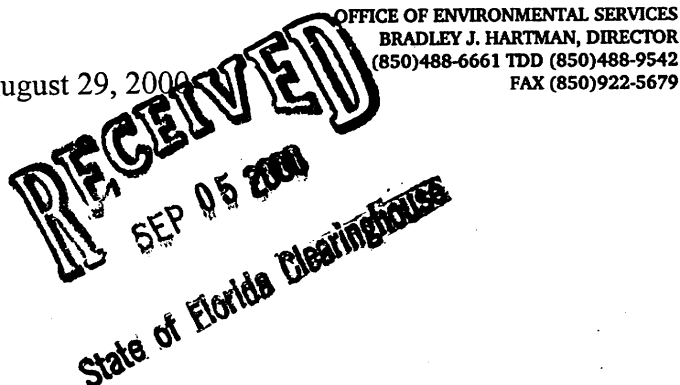
TONY MOSS
Miami

EDWIN P. ROBERTS, DC
Pensacola

JOHN D. ROOD
Jacksonville

ALLAN L. EGBERT, Ph.D., Executive Director
VICTOR J. HELLER, Assistant Executive Director

August 29, 2000



Ms. Cherie Trainor
Florida State Clearinghouse
Florida Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Re: SAI #199810150676CR4 (Modified Water
Delivery to Everglades National Park: 8.5
Square Mile Area General Reevaluation
Report and Final Supplemental
Environmental Impact Statement), Miami-
Dade County

Dear Ms. Trainor:

The Office of Environmental Services of the Florida Fish and Wildlife Conservation Commission has reviewed the referenced document, and has already provided the U.S. Fish and Wildlife Service with our comments (attached). We are not providing further comments on the final Supplemental Environmental Impact Statement to the U.S. Army Corps of Engineers under the National Environmental Policy Act since it appears that they have addressed our comments on the draft version.

Sincerely,

Handwritten signature of Bradley J. Hartman.
Bradley J. Hartman, Director
Office of Environmental Services

BJH/MAP
ENV 2-16/11
ENV 1-3-2
Enclosure
85smafinal.sai.wpd

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION



JAMES L. "JAMIE" ADAMS, JR.
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VICTOR J. HELLER, Assistant Executive Director

OFFICE OF ENVIRONMENTAL SERVICES
BRADLEY J. HARTMAN, DIRECTOR
(850)488-6661 TDD (850)488-9542
FAX (850)922-5679

August 29, 2000


Mr. Stephen Forsythe
U.S. Fish and Wildlife Service
P.O. Box 2676
Vero Beach, Florida 32961-2676

Re: Modified Water Deliveries to Everglades
National Park: 8.5 Square Mile Area
General Reevaluation Report and Final
Environmental Impact Statement, Miami-
Dade County

Dear Mr. Forsythe:

The Office of Environmental Services of the Florida Fish and Wildlife Conservation Commission has reviewed the final Fish and Wildlife Coordination Act Report, produced jointly by the U.S. Fish and Wildlife Service and Everglades National Park. We concur that Alternative 6D, with the added assurances provided on pp. ES-9 and ES-10 of the General Reevaluation Report, would provide a reasonable balance between flood mitigation and protection of fish and wildlife habitat. We note that the model results of Alternative 6D also indicate that it would represent a significant improvement over the "No Action" alternative (i.e., the already authorized plan) in terms of hydrological improvements to northeast Shark River Slough.

Sincerely,


Bradley J. Hartman, Director
Office of Environmental Services

BJH/MAP
ENV 2-16/4
85smafin.fws.wpd

COUNTY: State

DATE: 08/03/2000
COMMENTS DUE DATE: 09/01/2000
CLEARANCE DUE DATE: 09/04/2000
SAI#: FL199810150676CR4

Message:

STATE AGENCIES

WATER MANAGEMENT DISTRICTS

OPB POLICY UNITS

Agriculture
Community Affairs
Environmental Protection
Fish & Wildlife Conserv. Comm
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State
Transportation

South Florida WMD
Southwest Florida WMD
St. Johns River WMD

Environmental Policy/C & ED

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The attached document requires a Coastal Zone Management Act/Florida Coastal Management Program consistency evaluation and is categorized as one of the following:

- Federal Assistance to State or Local Government (15 CFR 930, Subpart F). Agencies are required to evaluate the consistency of the activity.
- X Direct Federal Activity (15 CFR 930, Subpart C). Federal Agencies are required to furnish a consistency determination for the State's concurrence or objection.
- Outer Continental Shelf Exploration, Development or Production Activities (15 CFR 930, Subpart E). Operators are required to provide a consistency certification for state concurrence/objection.
- Federal Licensing or Permitting Activity (15 CFR 930, Subpart D). Such projects will only be evaluated for consistency when there is not an analogous state license or permit.

Project Description:

Department of the Army - District Corps of Engineers - July 2000 - General Reevaluation Report and Final Supplemental Environmental Impact Statement, Including Appendices A-H - Modified Water Deliveries to Everglades National Park, Addressing the 8.5 Square Mile Area (SMA) Feature - Central and Southern Florida Project

Available on-line at
www.saj.usace.army.mil/dp/MWDC111.htm

To: Florida State Clearinghouse
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 922-5438 (SC 292-5438)
(850) 414-0479 (FAX)

EO. 12372/NEPA

Federal Consistency

- ☒ No Comment
☐ Comments Attached
☐ Not Applicable

- ☒ No Comment/Consistent
☐ Consistent/Comments Attached
☐ Inconsistent/Comments Attached
☐ Not Applicable

From:

Division/Bureau: 206/OTTED

Reviewer: M Blakely

Date: Aug 8, 2000

DIVISIONS OF FLORIDA DEPARTMENT OF STATE

Office of the Secretary
Office of International Relations
Division of Elections
Division of Corporations
Division of Cultural Affairs
Division of Historical Resources
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FLORIDA DEPARTMENT OF STATE

Katherine Harris

Secretary of State

DIVISION OF HISTORICAL RESOURCES

Ms. Cherie Trainor
Florida Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, Florida 32399-2100

August 11, 2000

RE: DHR No. 2000-06521 (Ref:2000-04477) SAI No. FL199810150676CR4
Agency: United States Army Corps of Engineers
Project Name: Modified Deliveries to Everglades National Park, Florida
Miami-Dade County, Florida

Our office has received and reviewed the above referenced project in accordance with Section 106 of the *National Historic Preservation Act of 1966* (Public Law 89-665), as amended in 1992, and 36 C.F.R., Part 800: *Protection of Historic Properties*. The State Historic Preservation Officer (SHPO) is to advise and assist federal agencies when identifying historic properties (listed or eligible for listing, in the National Register of Historic Places), assessing effects upon them, and considering alternatives to avoid or reduce the project's effect on them.

A cultural resource assessment survey of the project area found no cultural resources. It was determined that the proposed action will have no adverse effect on historic properties either listed or eligible for listing in the *National Register of Historic Places*. Based on the information provided, our agency concurs with this determination. A letter was issued from our office on June 22, 2000 providing concurrence to these findings presented in the professional cultural resource assessment survey previously submitted to our office. We maintain no objections to this project.

If you have any questions concerning our comments, please contact Brian Yates, Historic Sites Specialist, at (850) 487-2333 or 1-800-847-7278. Your interest in protecting Florida's historic properties is appreciated.

Sincerely,

Frederick P. Gaeke, Deputy SHPO

Janet Snyder Matthews, Ph.D., Director
Division of Historical Resources
State Historic Preservation Officer

JSM/Yby

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AUG 17 2000

State of Florida Clearinghouse

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250 • <http://www.flheritage.com>

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☐ Archaeological Research (850) 487-2299 • FAX: 414-2207
☐ Historic Preservation (850) 487-2333 • FAX: 922-0496
☐ Historical Museums (850) 488-1484 • FAX: 921-2503
☐ Historic Pensacola Preservation Board (850) 595-5985 • FAX: 595-5989
☐ Palm Beach Regional Office (561) 279-1475 • FAX: 279-1476
☐ St. Augustine Regional Office (904) 825-5045 • FAX: 825-5044
☐ Tampa Regional Office (813) 272-3843 • FAX: 272-2340

CLEARANCE DUE DATE:

09/04/2000

SAI#:

FL199810150676CR4

Message:

STATE AGENCIES

Agriculture
Community Affairs
Environmental Protection
Fish & Wildlife Conserv. Comm
OTTEO
State
X Transportation

WATER MANAGEMENT DISTRICTS

South Florida WMD
Southwest Florida WM
St. Johns River WMD

OPB POLICY UNITS

Environmental Policy/C & ED

Post-IT™ brand fax transmittal memo 7671 # of pages > 2

To: <u>Cherie Trainor</u>	From: <u>David Korras</u>
Co: <u>DCA State Clearinghouse</u>	Co.:
Dept.:	Phone #: <u>(305) 377-5915</u>
Fax #: <u>(994-0479)</u>	Fax #:

The attached document requires a Coastal Zone Management Act/Florida Coastal Management Program consistency evaluation and is categorized as one of the following:

- Federal Assistance to State or Local Government (15 CFR 930, Subpart F). Agencies are required to evaluate the consistency of the activity.
- X Direct Federal Activity (15 CFR 930, Subpart C). Federal Agencies are required to furnish a consistency determination for the State's concurrence or objection.
- Outer Continental Shelf Exploration, Development or Production Activities (15 CFR 930, Subpart E). Operators are required to provide a consistency certification for state concurrence/objection.
- Federal Licensing or Permitting Activity (15 CFR 930, Subpart D). Such projects will only be evaluated for consistency when there is not an analogous state license or permit.

Project Description:

Department of the Army - District Corps of Engineers - July 2000 - General Reevaluation Report and Final Supplemental Environmental Impact Statement, including Appendices A-H - Modified Water Deliveries to Everglades National Park, Addressing the 0.5 Square Mile Area (SMA) Feature - Central and Southern Florida Project

Available on-line at
www.saj.usace.army.mil/dp/MWDC111.htm

To: Florida State Clearinghouse
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 922-5438 (SC 292-5438)
(850) 414-0479 (FAX)

EO. 12372/NEPA

Federal Consistency

- ☐ No Comment
☒ Comments Attached
☐ Not Applicable

- ☐ No Comment/Consistent
☒ Consistent/Comments Attached
☐ Inconsistent/Comments Attached
☐ Not Applicable

From:

Division/Bureau:

FDOT District 6 Planning Office

Reviewer:

Date:

8/31/00

50 P.001 No. 14 10:14 Aug 31 00

FDOT ENVIRONMENTAL OFF TEL: 1-305-499-2308

ROUTING SHEET

DATE:

8/9/00

TO:

Debbie Hunt, D1; Aage Schroder, D2; Marvin Stukey, D3; Joe Yesbeck, D4; Carolyn Ismart, D5;
Gary Donn, D6; Don Skelton, D7; Irwin, EMO; Hebert, Seaport; Ashbaker, Aviation; Heiss, Rail

SA#:

F1199810150676CR4

Application Description:

Everglades NP Water Delivery

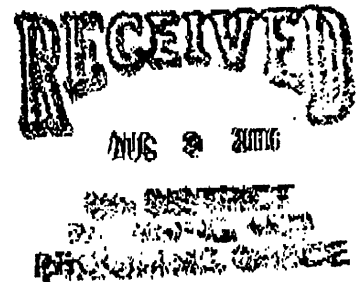
Date Response Due to the Clearinghouse:

9/1/00

Please review and comment regarding the attached application in accordance with Department Procedure 525-010-205. A response to the Director of the Clearinghouse and this routing sheet should be completed and returned as directed in the procedure.

The following criteria, as appropriate to the project, should be used to evaluate the application and develop your comments:

- Florida Transportation Plan
- Adopted Work Program
- Transportation Improvement Program (TIP)
- Right of Way Preservation and Advanced Acquisition
- Transit Development Program
- MPO Comprehensive Transportation Plan and 20 Year Transportation Plan
- Florida Rail System Plan
- Florida Aviation System Plan
- Local Airport Master Plan
- Florida Seaport Mission Plan
- Environment Commitments
- Unified Planning Work Program
- Level of Service
- Access Management



If comments are warranted based on other criteria, they should be included.

No comments regarding this document. FDOT will continue to coordinate regarding the Tamiami Trail SEIS portion of the modified Waters Delivery Plan.

Application Type:

General

Aviation

Rail

Transit

Environmental

Seaport

Financial Project Identifier:

(if applicable).

(Name) Sandra Whitacre

Central Office ICAR Coordinator - MS #28

Phone: (850) 414-4812 / SC 894-4812

FAX: (850) 413-7640 / SC 293-7640

RECYCLED PAPER



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045 • TDD (561) 697-2574
Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680 • www.sfwmd.gov

GOV 04-12

September 7, 2000

RECEIVED
SEP 11 2000

Ms. Cherie Trainor
Florida State Clearinghouse
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

State of Florida Clearinghouse

Dear Ms. Trainor:

Subject: Federal Consistency Review on Department of the Army - District Corps of Engineers - July 2000 - General Reevaluation Report and Final Supplemental Environmental Impact Statement, Including Appendices A-H - Modified Water Deliveries to Everglades National Park, Addressing the 8.5 Square Mile Area (SMA) Feature - Central and Southern Florida Project
Reference #: FL199810150676CR3

The South Florida Water Management District (District) has concluded a consistency review of the Army Corps of Engineers' (USACE) General Reevaluation/Supplemental Environmental Impact Statement (GRR/SEIS) under the auspices of the Florida Coastal Management Program (FCMP).

Through this letter the District is including comments, findings, and recommendations on the proposed federal action pursuant to 380.23 F.S. The District finds the proposed actions to be consistent with its authorities under Chapter 373, F.S.

The proposed plan appears to balance a number of competing objectives, and, to the extent practicable, attempts to maximize the protection of the resource and minimize the impacts to local residents. The document acknowledges that certain water quality/quantity issues will need to be addressed in the final design specifications for this project. For example, the proposed flood mitigation operations and the conveyance of runoff to the C-111 project area are not detailed within the final GRR/SEIS. Since these operations have a potential to impact the proposed C-111 project as previously described by the USACE (1994 C-111 General Reevaluation/Environmental Impact Statement), the District recommends that a detailed assessment be provided prior to final design of this project as well as the proposed C-111 project.

Certain specifics concerning the compatibility of the operations and potential impacts to agriculture east of the L-31N levee are also lacking in the final document. We understand that these impacts may be largely determined by the final selection of operating criteria for both the Modified Water Deliveries and the C-111 project features. Accordingly we recommend the

GOVERNING BOARD

Michael Collins, *Chairman*
Michael D. Minton, *Vice Chairman*
Mitchell W. Berger

Vera M. Carter
Gerardo B. Fernandez
Patrick J. Gleason

Nicolas J. Gutierrez, Jr.
Harkley R. Thornton
Trudi K. Williams

EXECUTIVE OFFICE

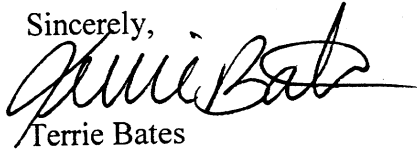
Frank R. Finch, P.E., *Executive Director*
James E. Blount, *Chief of Staff*

Ms. Cherie Trainor
September 7, 2000
Page 2

USACE determine what additional flood protection measures, if any, are needed for the agricultural lands east of the L-31N canal as part of a coordinated operating plan for both the C-111 and Modified Water Delivery projects.

We appreciate this opportunity to provide our views and comments. If you have any questions, please contact Dewey Worth at (561) 682-2711.

Sincerely,

A handwritten signature in black ink, appearing to read "Terrie Bates", written over a horizontal line.

Terrie Bates
Interim Deputy Executive Director
Water Resources Management
South Florida Water Management District

TB/jj

c: Dewey Worth



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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JEB BUSH
Governor

STEVEN M. SEIBERT
Secretary

September 6, 2000

Mr. Elmar Kurzbach
Department of the Army
Jacksonville District Corps of Engineers
Post Office Box 4970
Jacksonville, Florida 32232-0019


RE: Department of the Army - District Corps of Engineers - July 2000 - General
Reevaluation Report and Final Supplemental Environmental Impact Statement,
Including Appendices A-H - Modified Water Deliveries to Everglades National
Park, Addressing the 8.5 Square Mile Area (SMA) Feature - Central and Southern
Florida Project
SAI: FL199810150676CR4

Dear Mr. Kurzbach:

The Florida State Clearinghouse has been advised that our reviewing agencies require additional time to complete the review of the above-referenced project. In order to receive comments from all agencies, an additional fifteen days is requested for completion of the state's consistency review in accordance with 15 CFR 930.41(b). We will make every effort to conclude the review and forward the consistency determination to you on or before September 19, 2000.

Thank you for your understanding. If you have any questions regarding this matter, please contact Ms. Cherie Trainor, Clearinghouse Coordinator, at (850) 922-5438.

Sincerely,


for Ralph Cantral, Executive Director
Florida Coastal Management Program

RC/cc

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100

Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781

Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE
2796 Overseas Highway, Suite 212
Marathon, FL 33050-2227
(305) 289-2402

COMMUNITY PLANNING
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-2356

EMERGENCY MANAGEMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 413-9969

HOUSING & COMMUNITY DEVELOPMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-7956



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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Governor

STEVEN M. SEIBERT
Secretary

FLORIDA STATE CLEARINGHOUSE
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100
(850) 922-5438
Fax:(850) 414-0479

To: John Moulding Date: 9/6/00
Fax #: 904/432-3442 Pages: 6, including cover sheet.
From: Cindy Cravick
Subject: Comments for 98-0676CR4

COMMENTS: Here's what we've
received to date, per your request.

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100
Phone: (850) 488-8466/Suncom 278-8466 FAX: (850) 921-0781/Suncom 291-0781
Internet address: <http://www.state.fl.us/comaff/>

FLORIDA KEYS
Area of Critical State Concern Field Office
2796 Overseas Highway, Suite 212
Marathon, Florida 33850-2227

GREEN SWAMP
Area of Critical State Concern Field Office
205 East Main Street, Suite 104
Bartow, Florida 33830-1021

Sep 6 '00 12:43

P.02/06
08/03/2000

COUNTY: State

DATE: 09/01/2000
COMMENTS DUE DATE:

CLEARANCE DUE DATE: 09/04/2000

SAI#:

FL199810150676CR4

Message:

STATE AGENCIES

Agriculture
Community Affairs
Environmental Protection
Fish & Wildlife Conserv. Comm
X OTTED
State
Transportation

WATER MANAGEMENT DISTRICTS

South Florida WMD
Southwest Florida WMD
St. Johns River WMD

OPB POLICY UNITS

Environmental Policy/C & ED

RECEIVED
AUG 17 2000
State of Florida Clearinghouse

The attached document requires a Coastal Zone Management Act/Florida Coastal Management Program consistency evaluation and is categorized as one of the following:

— Federal Assistance to State or Local Government (15 CFR 930, Subpart F). Agencies are required to evaluate the consistency of the activity.

X — Direct Federal Activity (15 CFR 930, Subpart C). Federal Agencies are required to furnish a consistency determination for the State's concurrence or objection.

— Outer Continental Shelf Exploration, Development or Production Activities (15 CFR 930, Subpart E). Operators are required to provide a consistency certification for state concurrence/objection.

— Federal Licensing or Permitting Activity (15 CFR 930, Subpart D). Such projects will only be evaluated for consistency when there is not an analogous state license or permit.

Project Description:

Department of the Army - District Corps of Engineers - July 2000 - General Reevaluation Report and Final Supplemental Environmental Impact Statement, including Appendices A-H - Modified Water Deliveries to Everglades National Park, Addressing the 8.5 Square Mile Area (SMA) Feature - Central and Southern Florida Project

Available on-line at
www.saj.usace.army.mil/dp/MWDC111.htm

To: Florida State Clearinghouse
Department of Community Affairs
2556 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 922-5438 (SC 292-5438)
(850) 414-0479 (FAX)

EO. 12372/NEPA

- ☒ No Comment
☐ Comments Attached
☐ Not Applicable

Federal Consistency

- ☒ No Comment/Consistent —
☐ Consistent/Comments Attached
☐ Inconsistent/Comments Attached
☐ Not Applicable

From:

Division/Bureau:

Reviewer:

Date:

206/OTTED

M. Shabazz

Aug 8, 2000

DIVISIONS OF FLORIDA DEPARTMENT OF STATE

Office of the Secretary
Office of International Relations
Division of Elections
Division of Corporations
Division of Cultural Affairs
Division of Historical Resources
Division of Library and Information Services
Division of Licensing
Division of Administrative Services



State Board of Education
Trustees of the Internal Improvement Trust Fund
Administration Commission
Florida Land and Water Adjudicatory Commission
Siting Board
Division of Bond Finance
Department of Revenue
Department of Law Enforcement
Department of Highway Safety and Motor Vehicles
Department of Veterans' Affairs

FLORIDA DEPARTMENT OF STATE
Katherine Harris
Secretary of State

DIVISION OF HISTORICAL RESOURCES

August 11, 2000

Ms. Cherie Trainor
Florida Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, Florida 32399-2100

RE: DHR No. 2000-06521 (Ref 2000-04477) SAI No. FL199810150676CR4
Agency: United States Army Corps of Engineers
Project Name: Modified Deliveries to Everglades National Park, Florida
Miami-Dade County, Florida

Our office has received and reviewed the above referenced project in accordance with Section 106 of the *National Historic Preservation Act of 1966* (Public Law 89-665), as amended in 1992, and 36 C.F.R., Part 800: *Protection of Historic Properties*. The State Historic Preservation Officer (SHPO) is to advise and assist federal agencies when identifying historic properties (listed or eligible for listing, in the National Register of Historic Places), assessing effects upon them, and considering alternatives to avoid or reduce the project's effect on them.

A cultural resource assessment survey of the project area found no cultural resources. It was determined that the proposed action will have no adverse effect on historic properties either listed or eligible for listing in the *National Register of Historic Places*. Based on the information provided, our agency concurs with this determination. A letter was issued from our office on June 22, 2000 providing concurrence to these findings presented in the professional cultural resource assessment survey previously submitted to our office. We maintain no objections to this project.

If you have any questions concerning our comments, please contact Brian Yates, Historic Sites Specialist, at (850) 487-2333 or 1-800-847-7278. Your interest in protecting Florida's historic properties is appreciated.

Sincerely,

Andrick P. Gable, Deputy SHPO

Janet Snyder Matthews, Ph.D., Director
Division of Historical Resources
State Historic Preservation Officer

JSM/Yby

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AUG 17 2000

State of Florida Clearinghouse

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250 • <http://www.flheritage.com>

<input type="checkbox"/> Director's Office (850) 488-1480 • FAX: 488-3355	<input type="checkbox"/> Archaeological Research (850) 487-2299 • FAX: 414-2207	<input checked="" type="checkbox"/> Historic Preservation (850) 487-2333 • FAX: 922-0496	<input type="checkbox"/> Historical Museums (850) 488-1484 • FAX: 921-2203
<input type="checkbox"/> Historic Pensacola Preservation Board (850) 595-5985 • FAX: 595-5989	<input type="checkbox"/> Palm Beach Regional Office (561) 279-1475 • FAX: 279-1476	<input type="checkbox"/> St. Augustine Regional Office (904) 825-5045 • FAX: 825-5044	<input type="checkbox"/> Tampa Regional Office (813) 272-3843 • FAX: 272-2340

CLEARANCE DATE:

09/06/2000
FL199810150676CR4

Message:

OPR POLICY UNIT

STATE AGENCIES

Agriculture
Community Affairs
Environmental Protection
Fish & Wildlife Conserv. Comm
OTED
State
Transportation

WATER MANAGEMENT DISTRICTS

South Florida WMD
Southwest Florida WMD
St. Johns River WMD

Environmental Policy/C & ED

Post-It brand fax transmittal memo 7671

of pages = 2

To: Cherie Trainor	From: David Korros
Co: DCA State Clearinghouse	Co:
Dept:	Phone: (305) 377-5915
Fax: (994-0479)	Fax:

The attached document requires a Coastal Zone Management Act/Florida Coastal Management Program consistency evaluation and is categorized as one of the following:

- Federal Assistance to State or Local Government (15 CFR 930, Subpart F). Agencies are required to evaluate the consistency of the activity.
- X Direct Federal Activity (15 CFR 930, Subpart C). Federal Agencies are required to furnish a consistency determination for the State's concurrence or objection.
- Outer Continental Shelf Exploration, Development or Production Activities (15 CFR 930, Subpart E). Operators are required to provide a consistency certification for state concurrence/objection.
- Federal Licensing or Permitting Activity (15 CFR 930, Subpart D). Such projects will only be evaluated for consistency when there is not an analogous state license or permit.

Project Description:

Department of the Army - District Corps of Engineers - July 2000 - General Reevaluation Report and Final Supplemental Environmental Impact Statement, including Appendices A-H - Modified Water Delivery to Everglades National Park, Addressing the 8.5 Square Mile Area (SMA) Feature - Central and Southern Florida Project

Available on-line at
www.saj.usace.army.mil/dp/AMWDC111.htm

EO 12172/NEPA

Federal Consistency

To: Florida State Clearinghouse
Department of Community Affairs
2055 Shumard Oak Boulevard
Tallahassee, FL 32309-2100
(850) 922-5438 (SC 292-5438)
(850) 414-0478 (FAX)

- ☐ No Comment
- ☒ Comments Attached
- ☐ Not Applicable

- ☐ No Comment/Consistent
- ☒ Consistent/Comments Attached
- ☐ Inconsistent/Comments Attached
- ☐ Not Applicable

From:

Division/Bureau:

Reviewer:

Date:

DOT District 6 Planning Office

Det. J. C.

8/31/00

10:14 AM NO. 001 P. 03

Aug 31 00

FDCT ENVIRONMENTAL OFF TEL: 1-305-499-2308

ROUTING SHEET

DATE:

8/9/00

TO:

Dabbie Hunt, D4; Aage Schroder, D2; Marvin Stukey, D3; Joe Yesbeck, D4; Carolyn Ismart, D5;
Gary Donn, D6; Don Skelton, D7; Irwin, EMO; Hebert, Seaport; Ashbaker, Aviation; Heiss, Rail

SAW:

FL 199810150676CR4
Everglades NP Water Delivery

Application Description:

Date Response Due to the Clearinghouse:

9/1/00

Please review and comment regarding the attached application in accordance with Department Procedure 525-010-205. A response to the Director of the Clearinghouse and this routing sheet should be completed and returned as directed in the procedure.

The following criteria, as appropriate to the project, should be used to evaluate the application and develop your comments:

- Florida Transportation Plan
- Adopted Work Program
- Transportation Improvement Program (TIP)
- Right of Way Preservation and Advanced Acquisition
- Transit Development Program
- MPO Comprehensive Transportation Plan and 20 Year Transportation Plan
- Florida Rail System Plan
- Florida Aviation System Plan
- Local Airport Master Plan
- Florida Seaport Mission Plan
- Environment Commitments
- Unified Planning Work Program
- Level of Service
- Access Management

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AUG 9 2000

FLORIDA DEPARTMENT OF TRANSPORTATION
CLEARINGHOUSE

If comments are warranted based on other criteria, they should be included.

No comments regarding this document. FDOT will continue to coordinate regarding the Tamiami Trail SEIS portion of the Modified Waters Delivery Plan.

Application Type:

General Aviation Rail Transit Environmental Seaport

Financial Project Identifier:

(if applicable).

(Name) Sandra Whitlock
Central Office ICAR Coordinator - MS #29
Phone: (850) 414-4812 / SC 994-4812
FAX: (850) 413-7640 / SC 293-7640

RECYCLED PAPER

COUNTY: State

COMMENTS DUE DATE:

09/01/2000

CLEARANCE DUE DATE:

09/04/2000

SAI#:

FL199810150676CR4

Message:

STATE AGENCIES

Agriculture
Community Affairs
Environmental Protection
Fish & Wildlife Conserv. Comm
OTTED
State
Transportation

WATER MANAGEMENT DISTRICTS

South Florida WMD
Southwest Florida WMD
X St. Johns River WMD

OPB POLICY UNITS

Environmental Policy/C & ED

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State of Florida Clearinghouse

The attached document requires a Coastal Zone Management Act/Florida Coastal Management Program consistency evaluation and is categorized as one of the following:

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Project Description:

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Available on-line at
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Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 922-5438 (SC 292-5438)
(850) 414-0479 (FAX)

EO. 12372/NEPA

Federal Consistency

- ☐ No Comment
- ☐ Comments Attached
- ☐ Not Applicable

- ☐ No Comment/Consistent
- ☐ Consistent/Comments Attached
- ☐ Inconsistent/Comments Attached
- ☐ Not Applicable

From:

Division/Bureau:

Reviewer:

Date:

NOT IN SJRWMDSJRWMD/OPPR. J. [Signature]8/8/00

ST. JOHNS RIVER WATER MGT. DISTRICT

AUG - 7 2000

MAIL CENTER

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION



JAMES L. "JAMIE" ADAMS, JR.
Bushnell

BARBARA C. BARSH
Jacksonville

QUINTON L. HEDGEPEETH, DDS
Miami

H.A. "HERKY" HUFFMAN
Deltona

DAVID K. MERHAN
St. Petersburg

JULIE K. MORRIS
Sarasota

TONY MOSS
Miami

EDWIN P. ROBERTS, DC
Pensacola

JOHN D. ROOD
Jacksonville

ALLAN L. EGBERT, Ph.D., Executive Director
VICTOR J. HEHLER, Assistant Executive Director

August 29, 2000

OFFICE OF ENVIRONMENTAL SERVICES
BRADLEY J. HARTMAN, DIRECTOR
(850)488-6661 TDD (850)488-9442
FAX (850)922-5479

RECEIVED
SEP 05 2000
State of Florida Clearinghouse


Ms. Cherie Trainor
Florida State Clearinghouse
Florida Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Re: SAI #199810150676CR4 (Modified Water
Delivery to Everglades National Park: 8.5
Square Mile Area General Reevaluation
Report and Final Supplemental
Environmental Impact Statement), Miami-
Dade County

Dear Ms. Trainor:

The Office of Environmental Services of the Florida Fish and Wildlife Conservation Commission has reviewed the referenced document, and has already provided the U.S. Fish and Wildlife Service with our comments (attached). We are not providing further comments on the final Supplemental Environmental Impact Statement to the U.S. Army Corps of Engineers under the National Environmental Policy Act since it appears that they have addressed our comments on the draft version.

Sincerely,


Bradley J. Hartman, Director
Office of Environmental Services

BJH/MAP
ENV 2-16/11
ENV 1-3-2
Enclosure
85smafinal.sai.wpd

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION



JAMES L. "JAMIE" ADAMS, JR.
Bushnell

BARBARA C. BARSH
Jacksonville

QUINTON L. HEDGEPEETH, DDS
Miami

H.A. "HERKY" HUFFMAN
Deltona

DAVID K. MEEHAN
St. Petersburg

JULIE K. MORRIS
Sarasota

TONY MOSS
Miami

EDWIN P. ROBERTS, DC
Pensacola

JOHN D. ROOD
Jacksonville

LLAN L. EGBERT, Ph.D., Executive Director
CTOR J. HELLER, Assistant Executive Director

OFFICE OF ENVIRONMENTAL SERVICES
BRADLEY J. HARTMAN, DIRECTOR
(850)488-6661 TDD (850)488-9544
FAX (850)922-5673

August 29, 2000

Mr. Stephen Forsythe
U.S. Fish and Wildlife Service
P.O. Box 2676
Vero Beach, Florida 32961-2676

Re: Modified Water Deliveries to Everglades
National Park: 8.5 Square Mile Area
General Reevaluation Report and Final
Environmental Impact Statement, Miami-
Dade County

Dear Mr. Forsythe:

The Office of Environmental Services of the Florida Fish and Wildlife Conservation Commission has reviewed the final Fish and Wildlife Coordination Act Report, produced jointly by the U.S. Fish and Wildlife Service and Everglades National Park. We concur that Alternative 6D, with the added assurances provided on pp. ES-9 and ES-10 of the General Reevaluation Report, would provide a reasonable balance between flood mitigation and protection of fish and wildlife habitat. We note that the model results of Alternative 6D also indicate that it would represent a significant improvement over the "No Action" alternative (i.e., the already authorized plan) in terms of hydrological improvements to northeast Shark River Slough.

Sincerely,


Bradley J. Hartman, Director
Office of Environmental Services

BJH/MAP
ENV 2-16/4
85smatin.fws.wpd

ECOSYSTEM MGMT.

Fax: 850-922-5380

Sep 1 '00 16:08

P. 01/03



Jeb Bush
Governor

Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

David B. Struhs
Secretary

August 31, 2000

Ms. Cherie Trainor
Florida State Clearinghouse
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Re: Department of the Army, District Corps of Engineers, July 2000, General Reevaluation Report and Final Supplemental Environmental Impact Statement, Including Appendices A-H, Modified Water Deliveries to Everglades National Park, Addressing the 8.5 Square Mile Area (SMA) Feature, Central and Southern Florida Project

SAI: FL199810150678CR4

Dear Ms. Trainor:

This Department has reviewed the above-described project proposal and based on the information provided, we submit the following comments and recommendations.

Background

The Corps of Engineers has selected Alternative 6D (with conditions) as the Recommended Plan to mitigate flooding effects on the 8.5 Square Mile Area (SMA) resulting from implementation of the Modified Water Deliveries Project. The Recommended Plan will convert the western portion of the 8.5 SMA to a buffer area between the developed area and Everglades National Park. The remainder of the 8.5 SMA will be provided flood mitigation as a result of higher water stages from implementation of the Modified Water Deliveries project.

Recommended Plan 6D consists of one perimeter and two interior levees as well as a seepage canal and pump station. The location of the perimeter levee is generally between Alternative 6C (Save Our Rivers boundary line) and Alternative 6B. The seepage canal system runs along 205th Avenue north from 168th Street to 132nd Street, then east along 132nd Street to the L-31N canal.

The seepage collection canal is designed to maintain the groundwater levels within the interior area of the outer levee at the same levels that existed prior to the implementation of the MWD project. Two interior levees, one on either side of the seepage canal are positioned to prevent surface water from directly entering the seepage canal. A proposed pumping structure (S-357) located at the southern terminus of the levee/canal system will discharge seepage through a 96-inch diameter pipe to be released south into a treatment area in or adjacent to the C-111 project area. There will be no major changes to operations of existing structures in the C&SF system resulting from implementation of this alternative.

"More Protection, Less Process"

Printed on recycled paper.

ECCOSYSTEM MGMT.

Fax: 850-922-5380

Sep 1 '00 16:08 P.02/03

Ms. Cherie Trainor
August 31, 2000
Page Two

The exterior levee on the western boundary of this alternative ranges from approximately 530 to 5545 feet east of the westernmost boundary of the 8.5 SMA, depending on the location along the boundary. This alternative includes approximately 4.5 square miles within its boundaries. To implement the plan a total of 2,335 acres will be purchased fee simple, and flowage easements will be required on another 546 acres. Approximately 35 owner residences and 20 tenants will require relocation.

The estimated cost of the Recommended Plan is \$106,541,230 with the cost for land, easements, and right-of-way needed for construction as well as lands acquired west and north of the perimeter levee the responsibility of the federal government. The Corps will pay 75 percent of the cost for operation and maintenance and the South Florida Water Management District (SFWMD) will pay 25 percent. The SFWMD will pay 100 percent of the cost of the post-construction management of land outside the perimeter levee.

The improved hydrology is predicted to result in a net increase of wetland acreage (7,464 acres) within the 8.5 SMA and the surrounding area of potential affect. Short hydroperiod marsh-forming wetland would be reduced by 4,298 acres while long hydroperiod peat-forming wetlands are predicted to increase by 11,762 acres. The reduction in short hydroperiod wetlands appears to be the result of drawdown effects near the canal in addition to shifts towards long hydroperiod wetlands caused by increased hydroperiods. Approximately 130 acres of wetlands will be directly impacted as a result of construction of the levee and canal system.

Comments

1. The Corps has determined that due to the wetland benefits within the 8.5 SMA and surrounding area associated with the implementation of the recommended plan that compensatory mitigation will not be necessary. This assumption seems to be premature since a determination of the extent of dredge and fill activities in waters of the state and the potential to further avoid and minimize impacts to wetlands will be considered under s.373.414, Florida Statutes.

The Corps' assumption that there will be an increase in wetlands associated with construction of the recommended plan is also questionable. Existing wetlands west of the perimeter levee in NESRS will benefit from improved hydroperiods and wetlands will be preserved in the buffer immediately west of the levee. However, these wetlands currently exist. Therefore, there will not be an increase in wetlands as a result of the project. In fact, construction of the levee and canal system will result in the loss of 130 acres of wetlands. These impacts will be evaluated under the Department's permitting process and the need for additional mitigation will be determined.

2. The recommended plan contains several specific conditions, which affect the way the project will be designed, constructed, operated and monitored. One of these conditions requires that the operation of the 8.5 SMA project be detailed in an Operations and Maintenance Manual to be agreed to by the ENP, USFWS, USACE and the SFWMD. As the facility will need a permit from the Department and its operation could affect waters of the state, it is suggested that the Department be added to the list of agencies to prepare the Operations and Maintenance Manual.

ECOSYSTEM MGMT.

Fax: 850-922-5380

Sep 1 '00 16:09

P. 03/03

Ms. Cherie Trainor
August 31, 2000
Page Three

3. In addition to the items of local cooperation contained in the General Design Memorandum for the Modified Water Deliveries to Everglades National Park, the Corps is requiring the local sponsor (SFVMD) to meet a list of requirements to protect the operation of the project. It can be expected that the construction of the flood mitigation project will induce development potential in the area and lead to an increase in density and intensity of use.

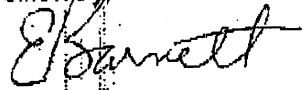
Item (i) requires the local sponsor to prevent future encroachments on the project lands, easements, and right-of-way, which might interfere with proper functioning of the plan. This is an important requirement and one that is intrinsically linked with requirement (k) to prevent unwise future development and to ensure compatibility with mitigation levels provided by the plan.

Both of these requirements will have to be coordinated with Dade County, as land use planning and land development regulations are their responsibility. Of particular concern is the protection of the remaining wetlands or other environmentally sensitive lands (tree islands) east of the perimeter levee. Appropriate zoning and land development regulations should be put in place to protect remaining resources and the planned level of flood mitigation.

4. As mentioned in previous comments on this project, potential water quality impacts remain a concern. The water quality assessment of the FSEIS concludes, "constituents of concern appear to be pesticides, nutrients, and bacteria. Toxic organics and metals do not appear to be a concern, although unidentified problems could exist." The recommended plan calls for water from the seepage canal which is to be constructed as part of the plan to discharge through a 2,000 foot pipeline into a 200-acre treatment area in the C-111 buffer area south of Richmond Drive. The phosphorus concentration is expected to range between 7 ppb and 12 ppb in seepage canal water. In any event, water quality certification for the project will depend on the applicant providing reasonable assurance through water quality data and plans and specifications that state water quality standards for receiving waters will not be violated.

Thank you for the opportunity of commenting on this proposal. If you have any questions regarding this letter please give me a call at (850) 488-4892.

Sincerely,



Emile Barnett,
Director of Ecosystem Projects

EB/jo



August 30, 2000

Mr. James Duck
Chief, Planning Division,
U.S. Army Corps of Engineers,
Planning Division,
P.O. Box 4970,
Jacksonville,
Florida 32232-0019,

RE: 8 ½ Square Mile Area

Dear Mr. Duck:

FPL thank you for forwarding the information regarding the recommended alternative selected for the 8 ½ Square Mile Area. As we noted in our letter of June 20, the 8.5 SMA includes several miles of FPL right-of-way (ROW). The 330ft right-of-way extends for about 3 miles in a north-south direction, linking our Turkey Point plant with one of our main bulk power distribution hubs in Dade County, the Levee Substation.

I wanted to take this opportunity to remind you that this is an important ROW for FPL. The Recommended Alternative includes a small area of the FPL ROW and shows an exterior levee and other project features crossing the ROW, but generally located to the west of the FPL property. We would encourage the COE to work closely with FPL in the early stages of future plans for the area so that we can efficiently avoid or minimize any potential impacts. We look forward to being able to work cooperatively with you as your plans progress.

Sincerely

Florette Braun
Principal Environmental Specialist
Environmental Services

Copies:

Dave Douglass - FPL Real Estate
Jean Howard - FPL Law
John Little - SHD
Roger Lopez - FPL Transmission Engineer
Raul Montenegro - FPL System Planning
Mike O'Neil - FPL Transmission Projects
Pam Rauch - FPL Law
Ignacio Sarmiento - FPL Real Estate
Ken Ammon - SFWMD
Dewey Worth - SFWMD

**The United Property Owners & Friends
Of The 8.5
Square Mile Area, Inc.**



September 1, 2000

Colonel James G. May
U.S. Army Corps of Engineers
Jacksonville District
4900 West Bay Street
Jacksonville, FL 32232-0019

**Re: Objections to the Final GRR/SEIS calling for the condemnation of property
in the 8.5 Square Mile Area (SMA)**

Dear Sir:

We had hoped our initial introduction would have been a visit by you to our community here in the 8.5 Square Mile Area (SMA) instead of delivery of this package to your office.

We are hopeful that you will find the time to come see first-hand the families the Corps is proposing to condemn in direct contravention of the laws of the United States of America.

We are committed to protecting all of the property in this area as provided in Public Law 101-229, the Modified Water Delivery, Everglades Expansion Act (1989) also known as the "Fascell Bill." We will continue to pronounce our long-held and unwavering position: **the lives and homes of the people in the 8.5 SMA are NOT FOR SALE.** We intend to zealously represent ourselves in any and every appropriate forum to ensure that our rights are protected.

Colonel May, maybe YOU can put an end to the misery our community continues to endure at the hands of government bureaucrats who refuse to follow the law.

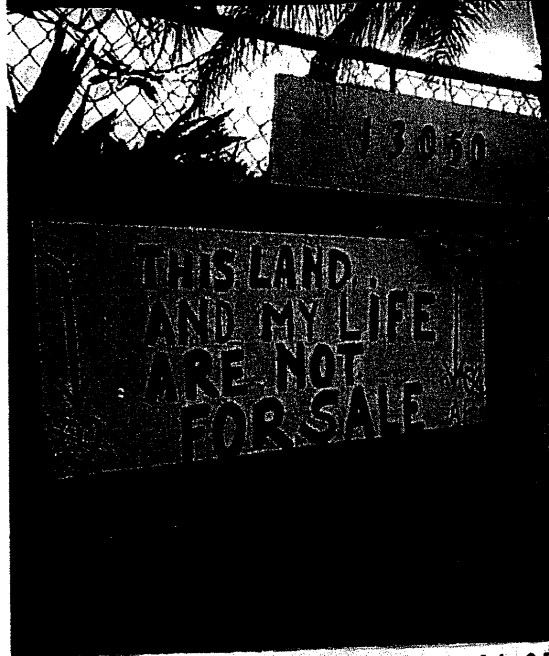
We extend an invitation to you to come visit with us. We look forward to working with you to get the Modified Water Deliveries project as authorized in the 1989 Act built within your tenure as our District Engineer.

Directors of the United Property Owners and Friends of the 8.5 Square Mile Area:

Eduardo Velasco
Alicia Perea
Alfonso
Norberto Romo

W. F. Quintero
W. F. Quintero
W. F. Quintero
W. F. Quintero

Attachment: Objections to the final GRR/SEIS calling for the condemnation of property in the 8.5 Square Mile Area (SMA)



Mr. and Mrs. Prieto are 35 year residents of the 8.5 Square Mile Area



WE ARE YOU!

Objections to the Final GRR/SEIS calling for the condemnation of property in the 8.5 Square Mile Area (SMA)

The Directors of the United Property Owners and Friends of the 8.5 SMA (UPO) provide comments and objections to the U.S. Army Corps of Engineers' (Corps) General Reevaluation Report (GRR) and Final Supplemental Environmental Impact Statement (FSEIS) for the 8.5 Square Mile Area portion of the Modified Water Deliveries to Everglades National Park Project (MWD). The UPO incorporates by reference the comments on the Draft GRR/SEIS submitted by members of our community and the Miccosukee Tribe of Indians of Florida (Tribe). We also incorporate by reference the comments and objections submitted by the Tribe on the GRR/FSEIS. Further, we incorporate by reference all comments and documents submitted to the South Florida Water Management District (SFWMD) and the Corps by members of our community and those representing the Tribe at the numerous public meetings on this issue.

We believe the GRR/FSEIS which calls for the condemnation of property within the 8.5 SMA is analogous to a situation where one decides what they want to do and then tries to justify or rationalize it. In this type of situation it is clear that the justification and rationalization just doesn't fit the decision. It is clear the decision isn't based on an unbiased, taintless, impartial, and objective review of the facts. Instead, it looks like someone is trying to put a square peg into a round hole. It just doesn't fit. We believe these Corps products just don't fit. Some of the information doesn't even pass the "is it plausible test?" In fact, we believe the GRR/FSEIS violate the laws of the United States of America to include P.L. 101-229 -- Modified Water Delivery, Everglades National Park Expansion Act (1989) (Congressman Dante Fascell Bill); the National Environmental Policy Act; the Laws conferring Property Rights, Human Rights, Civil Rights, and Environmental Justice; as well as directives promulgated by the elected officials of Miami-Dade County.

The Recommended Plan Violates Public Law 101-229

The purpose of Public Law 101-229 -- Modified Water Delivery, Everglades National Park Expansion Act (1989) (Congressman Dante Fascell Bill) -- is abundantly clear:

restore natural flow as is practicable and protect the 8.5 SMA.

“SEC. 104. MODIFICATION OF CERTAIN WATER PROJECTS
(a) IMPROVED WATER DELIVERIES -- (1) Upon completion of a final report by the Chief of the Army Corps of Engineers, the Secretary of the Army, in consultation with the Secretary, is authorized and directed to construct modifications to the Central and Southern Florida project to improve water deliveries into the park and shall to the extent practicable, take steps to restore the natural hydrological conditions within the park.

(c) FLOOD PROTECTION; EIGHT AND ONE-HALF SQUARE MILE AREA.--If the Secretary of the Army makes a determination pursuant to subsection (b) that the “Eight and One-Half Square Mile Area” will be adversely affected, the Secretary of the Army is authorized and directed to construct a flood protection system for that portion of presently developed land within such area.”

In passing the Dante Fascell bill, Congress did NOT say condemn property in the 8.5 SMA. Condemnation is NOT authorized by Congress.

The Corps is recommending a plan which does not construct a flood protection system. Instead, the Corps has selected a plan which calls for condemnation, indicating that acquisition of the 8.5 SMA and condemnation of the land is “mitigation.” This is in direct contravention of the statutory requirements of P.L. 101-229. The Corps does not have condemnation authority (See Attachment 1; Corps admits it does not have condemnation authority) and condemnation does not equal mitigation.

The Recommended Plan Violates the National Environmental Policy Act

The NEPA requires full disclosure so that the public can comment on agency action. But, the Corps fails to disclose or discuss the fact that it doesn't have the condemnation authority required to implement the recommended plan (see Attachment 1; Corps admits it doesn't have condemnation authority). Had the Corps discussed this "no condemnation authority" issue, it would have been perfectly clear that they would have to seek Congressional authority for condemnation which would, of course, delay MWD beyond the December 2003 deadline, thereby rendering the SFWMD preferred alternative unreasonable and unimplementable. All relevant factors are to be disclosed in the NEPA process. The failure to do so is a violation of the NEPA.

The NEPA also requires the selection of a reasonable alternative. The GRR indicates that alternatives 1, 2B and 9 are reasonable alternatives and "performed the best of all alternatives when evaluating project costs, flood mitigation, and associated social impacts" and Alternative 1, the authorized plan, "meets the ecological goals of the MWD project, while minimizing project costs and social impacts." This is the plan authorized by Congress and this is the plan we want.

A reasonable alternative is also one which can be implemented within the time allotted for the project. While the Corps has already missed the original deadline for completion of the MWD project (1997), a new deadline has been mandated by a Fish and Wildlife Service (F&WS) Biological Opinion. This new deadline is December 2003. It is clear that the recommended plan (alternative 6D) cannot be accomplished by this deadline.

We have said time and time again that our homes and our lives are not for sale. We are not willing sellers. We have provided documentation of unwilling sellers (see Attachment 2; Documentation of Unwilling Sellers). The Corps is aware that these unwilling sellers present an implementation problem. In your words, "without authority for condemnation, one unwilling seller could prevent the entire project from moving forward." We believe that the Corps has not analyzed or addressed this issue because it will highlight the facts that they don't have condemnation authority and that unwilling seller issues will delay implementation making it virtually impossible to complete the project as required by December, 2003 which would lead the Corps to select its original plan as provided for in the 1989 Act.

It is quite interesting to note that the GRR/FSEIS documents indicate:

“Unwilling Sellers: Time constraints associated with the conduct of this study prevented the development of a statistically reliable survey instrument and sample survey. As a result, specific estimates of the numbers of willing and unwilling sellers for each alternative have not been developed or reported herein.”

Again, we reiterate, we have provided, ad nauseam, documentation of unwilling sellers. The Corps has had possession of this information for quite some time. Since day one the Corps was aware that there are unwilling sellers. A survey could have, should have, needs to be conducted if the Corps feels:

“It is not sufficient to ask an individual about their willingness to sell their property without determining the threshold that would trigger their willingness to sell their property. This is to say that individuals may not be willing to sell their property at, for example, \$1,000 per acre, but would be more than willing to sell their property at \$5,000 per acre. A properly developed survey instrument would have helped identify these types of bias free data.”

Never mind the fact that the Corps has summarily dismissed the word of the residents of the 8.5 SMA who have signed these “unwilling seller” statements, why hasn’t the Corps determined the number of unwilling sellers? Is it because this would then lead to a discussion of the fact that the Corps doesn’t have condemnation authority, which they failed to mention in the GRR/FSEIS? We are at a loss to understand how the Corps thinks they are going to remove us from our property and construct this alternative by the deadline of December 2003. We believe if the Corps had been forthright about this information, one would have clearly seen that any alternative that calls for condemnation, including the recommended plan, would be unreasonable and unimplementable.

The federal government has had condemnation authority in the East Everglades Expansion area for some time. Still, they have not acquired all the land there. How can anyone think that they can condemn us, build a project and be done with it by December 2003? This is unreasonable. This is unimplementable. This is not an alternative. The Corps’ failure to discuss and analyze these relevant issues violates the NEPA.

The NEPA also requires full disclosure of costs associated with the alternatives. We note that the costs for land acquisition are seriously underestimated and do not include realistic figures related to condemnation. Who will pay to restore and maintain the land and how much? The GRR/FSEIS suggests that restoration and maintenance will be performed by the SFWMD. Our experience with their inability to maintain the land they currently own has been very negative and well documented by the media (see Attachment 3). But more important, the failure to calculate the reasonable and foreseeable costs of the restoration and maintenance of the land violates the requirements of the NEPA. The costs of delay associated with plans other than the plan authorized in the 1989 Act have not been accurately quantified. The failure of the Corps to include these reasonable and foreseeable costs of delay violates the NEPA as well.

The Recommended Plan Violates Laws Conferring Property Rights, Human Rights, Civil Rights and Environmental Justice

Without a public purpose, condemnation of property is a violation of property rights. The removal of these property owners is not necessary and in direct contravention to P.L. 101-229. There is no public purpose to be served by throwing these property owners off their land.

The 8.5 SMA has been clearly defined as a minority, Hispanic community with many Cuban refugees. We note that numerous offensive and discriminatory statements about us (e.g., the use of the word “illegal” to describe us) have been removed from the documents. However, we believe the GRR/FSEIS still contains discriminatory and offensive intents. For example, the Corps still refers to an arbitrary distinction between residents and non-residents, still relies on flawed data provided by Miami-Dade County Department of Environmental Resource Management (DERM), still has no idea how many residences they plan to condemn, and now claims the residents signed “unwilling seller” statements are unreliable. These intents violate the laws of the United States as well as an Executive Order issued by the President of the United States. Executive Order (EO12898) clearly requires agencies to ensure that Everglades Restoration does not have a disproportionate impact on minority and low income communities.

The League of United Latin American Citizens (LULAC), the oldest and most respected Hispanic civil rights organization in the country with over 140,000 members has passed a national resolution denouncing the treatment that both the 8.5 SMA residents and the Miccosukee Tribe are receiving in the implementation of the MWD project. The LULAC resolution resolves:

“LULAC cautions that efforts to take the land of the 8.5 Square Mile Area residents and the bureaucratic delays in providing the protections mandated by the 1989 Act, with the prior delays in implementing the Modified Water Deliveries Project and future delays associated with attempts to take the 8.5 Square Mile Area, together seriously undermine minority support for Everglades restoration and threaten the broad base of citizen support which is a necessary condition for restoration, and

LULAC urges Congress, the Florida Legislature, and other government agencies to respect the rights of the minority residents of the 8.5 Square Mile Area and Miccosukee Tribe of Indians by expeditiously implementing the Modified Water Deliveries Project as directed in the 1989 Act (including the protection of the 8.5 Square Mile Area as provided in section 104 (c)), and

LULAC warns that taking the land of residents in the 8.5 Square Mile Area is a gross breach of Latino minority human rights and constitutes indefensible racial discrimination by the governments and officials perpetuating such taking, and

LULAC condemns any attempt to take the land of the residents of the 8.5 Square Mile Area.” (See Attachment 4; LULAC Resolution).

LULAC, and others, are considering litigation to stop these violations of the laws including the affirmative duty described in EO 12898 and federal civil rights laws not to create disproportionate and undue burdens on minorities, especially when the Corps plan provided for in the 1989 Act would not create such problems and impacts.

The Recommended Plan Violates Miami-Dade County Directives

The Miami-Dade Commission has made it clear that they do not want any funds to be commingled with any alternative that results in the condemnation of the residents of the 8.5 SMA (see Attachment 5; Miami-Herald article). Discussions within the GRR/SEIS about utilizing any Miami Dade-County funds are not reasonable and violate the directive of the elected officials.

Conclusion

The Directors of the United Property Owners and Friends of the 8.5 Square Mile Area, once again, respectfully ask the Corps to follow the law. Build the MWD project that was authorized in the 1989 Dante Fascell Bill and contained in the Corps 1992 General Design Memorandum. Protect the property in the 8.5 SMA as required by PL 101-229. Please, our future, and the future of so many dependent upon the overall restoration of our ecosystem, will continue to be destroyed by the Corps' failure to follow the law. If you can't take our word for it, listen to some of our elected officials (see Attachment 6). Support for the 1989 Dante Fascell Act is getting stronger and growing exponentially every day. Let's work together to get the Modified Water Delivery project built NOW.

Additional Attachments:

Attachment 7: Media Articles

Attachment 8: A series of mailings that were forwarded to the South Florida Water Management District prior to their decision in June, 2000 -- Please review these, they are sure to change your minds and you will see the original Corps plan as the only alternative that meets the requirements of the 1989 Dante Fascell Act.



Elmar G Kurzbach
09/08/2000 11:25 AM

To: Sally C Garson/CESAJ/SAJ02@CESAJ
cc: Jon Moulding/CESAJ/SAJ02
Subject: Re: 8.5 SMA comments-It appears that the Corps is no longer under the control of Congress!

As discussed. EGvK

----- Forwarded by Elmar G Kurzbach/CESAJ/SAJ02 on 09/08/2000 11:23 AM -----

From: Madeleine Fortin <mfortin@bellsouth.net> on 09/04/2000 10:37 PM

To: James G May/CESAJ/SAJ02@CESAJ
cc: Elmar G Kurzbach/CESAJ/SAJ02@CESAJ
Subject: Re: 8.5 SMA comments-It appears that the Corps is no longer under the control of Congress!

UNITED PROPERTY OWNERS AND FRIENDS
OF THE 8.5 SQUARE MILE AREA

Col. May
PO Box 4970
Jacksonville, FL 32232

RE: THE CORPS IS NO LONGER UNDER THE CONTROL OF CONGRESS!

This letter is our public comment on the Corps of Engineers refusal to carry out the order given to it by Congress in 1989 to protect our community. Let me quote from the 1989 Everglades National Park Protection and Expansion Act, PL 101-229, Section 104, paragraph 2c "...the Secretary of the Army is authorized and directed to construct a flood protection system for that portion of presently developed land within such area."

The Corps developed the Modified Water Delivery Project to fulfill it's Congressional directive to rehydrate Shark River Slough and protect our community. That project was authorized and funded by Congress in 1992. Residents and property owners in our community have given the Corps of Engineers their support for the Modified Water Delivery Project and in return the Corps of Engineers throws out it's already approved and fully funded project to protect our community in favor of an option, termed "6D." This option will destroy 25% of the homes in the community, leave over half the community unprotected, cost over \$80 million dollars more than the already approved canal and levee, and add years of time to the completion of the project. The Corps does not have the authority to carry out this option since they do not have condemnation authority within the community, nor is there a source of funding to cover the added expense. Notice that the Act does not say to "construct a flood mitigation system" nor does it say to "protect some of the developed land" or to "protect as little of the developed land as you can get away with." Nor does the Act state that acquisition is a "non-structural" form of flood protection as the Corps continues to tell us.

It appears to community residents and property owners that the Army is no longer under the control of Congress, since Congress

"authorized and directed" the Secretary of the Army to protect our community and the Secretary of the Army apparently doesn't think he has to do what Congress told him to do. What's next-eco cleansing?

One of the most troubling aspects of this situation is the fact that the Corps made this decision based on incorrect data the Corps received from the Miami-Dade County Department of Environmental Resource Management (DERM). As I stated in my reply to the Corps final EIS, DERM misrepresented land elevations, number of residents, number of homes, land use, number of business, vegetation communities, the fact that the community has 22 miles of secondary drainage canals-the list goes on. DERM knew that the information it was giving the Corps was incorrect and the Corps knew the information was incorrect, yet the Corps used this incorrect information to legitimate it's decision not to do as Congress "authorized and directed" it to do 11 years ago. We feel this constitutes conspiracy to defraud. But-who cares what we think? If the clearly stated will of Congress doesn't mean anything, then it is unlikely that anything we have to say will be taken into consideration.

Area residents and property owners will never agree to even one more piece of property being condemned! Not One! The Corps has already purchased the land it's needs to construct our flood protection canal. It is not necessary to condemn any more property! Why are you wasting years of time and over \$80 million in tax money to destroy a community that does not one any harm?

We would also like to note that the 3 compromises listed on page 97 are not acceptable to community residents and property owners. ie:

- "a) continue to live in the area with roads, houses, and area around houses raised to the extent necessary to provide the protection directed by PL 101-229 at 100 percent government expense;
- b) totally relocated to the 8.5 SMA east of the 6D levee at 100 percent government expense;or
- c) sell property for a price that permits total relocation outside the 8.5 SMA"

These compromises were not discussed with the community and we do not agree that they will be acceptable under any circumstances! Many people in the unprotected areas of the community earn most of their income from their land. If just the area around their homes is raised, the rest of the their property will be unprotected and therefore unusable. This is not acceptable.

As for relocating east of the proposed levee-neither the Corps, the South Florida Water Management District or Everglades National Park own land in the eastern portion of the community. Whose land then are they going to use to relocate people to? It would be necessary to take land and homes away from people to give them to someone to relocate. That's just plain stupid! Besides, a levee will not protect the land from the unnaturally high ground water levels as the water comes up from underground. The land west of the canal will not be protected by a levee.

And finally, there is no place left in Miami-Dade County or Broward County where people can live in a rural, agricultural setting. Relocation outside the community is not possible. There is no way to replace what will have been taken away from us. Forced relocation will destroy an entire way of life. Although page ES-6, Vol 1 states that 6D will impact less than 17% of the homes and preserve 92% of the

agricultural productivity of the community this is, like so much else in this document, incorrect. 6D calls for the condemnation of a quarter of over 100 homes and leaves more than half the community unprotected. 6D amounts to genocide of the rural agricultural way of life that epitomizes America. We live the American Dream and destroying our community kills that dream.

We do not feel the need to offer any compromises to the Corps, the South Florida Water Management District or to Everglades National Park. Congress ordered that our community be protected and we do not feel the need to bribe the Corps of Engineers to do its job by offering it part of our community as a "compromise."

We are not sure what our options are at this point, but we want the Corps to know that we will not let the matter rest. Let me quote from my response to the EIS;
"Community Cohesion discusses residents' feelings about our community. On page 15 it states that because some people who own homes in the area stay in town during the week to work, or get their mail at a PO box, that, "For whatever social or economic reasons their loyalties lay elsewhere." This is so absurd that I can't imagine why the Corps included it! People's "loyalties" are not demonstrated by where they get their mail. A more accurate way to judge people's "loyalties" would be to acknowledge that despite abandonment by Miami-Dade County, and repeated attempts by government agencies to illegally confiscate their land, the vast majority of people continue to resist, often at great personal cost. "

We want you to know that we will continue to resist! We demand that you protect our entire community! We demand that you do what Congress told you to do!

JUST DIG THE DITCH !!!

Madeleine Fortin, Board of Directors
United Property Owners and Friends of the 8.5 Square Mile Area
21801 SW 152 Street, Miami, FL 33187
305-255-7098
<mfortin@bellsouth.net>

Herbert H. Zebuth
12029 59th Street, North
Royal Palm Beach, Florida 33411
(561) 798-4906

August 29, 2000

Mr. Joseph W. Westphal
Assistant Secretary of the Army
for Civil Works
Headquarters, United States Army
Corps of Engineers
108 Army Pentagon
Washington, D.C. 20310-0108

Dear Assistant Secretary Westphal,

I have great concern regarding the recent Corps of Engineers selection of a preferred alternative in the Supplemental General Reevaluation Report and Environmental Impact Statement – 8.5 Square Mile Area, July 2000. Selection by the Corps of Alternative 6D which includes construction of levees, a canal and a pump station to allow human intrusion to remain in the 8.5 SMA¹, and rejection of Alternative 5 which would have purchased the area's private property and allowed natural water levels to return, is disturbing for several reasons. This action endorses the concept that all human activity is more valuable than natural system function and should be given priority.

One of the findings of the Science Sub-group of the South Florida Ecosystem Restoration Working Group indicated that a tremendous ecosystem impact resulted from the loss of over half of the historic area of the former Everglades. This great loss occurred one small piece at a time over more than a century until the cumulative impacts have pushed the ecosystem to the brink of collapse. Providing flood control facilities for the 8.5 SMA will permanently carve out of the Everglades, an additional piece of the remnant system. Agricultural and human development with its associated impacts will form a more intense bubble intruding into the remnant Everglades Ecosystem and Everglades National Park.

Such an action would seem to be repeating the actions that created the present damaging conditions in the Everglades and required development of the CERP². It also gives weight to the argument that the CERP is really a Trojan horse for

¹ Square Mile Area

² Comprehensive Everglades Restoration Project

intensifying human development in south Florida. . If we consider Everglades restoration important enough to spend a minimum of \$7.8 Billion, why do we chip away at potential restoration benefits to satisfy special interest groups? We must stop repeating the same mistakes made for the same old reasons, that put this valuable ecosystem in such grave danger in the first place.

Assurances are given that operation of the proposed drainage system recommended in Alternative 6D will only provide flood mitigation for increased restoration water levels in the Everglades (GRR³, p. 51). Increased flood protection with increased impacts to Everglades National Park is not to be provided and intensified development is not to be encouraged. Such assurances provide little comfort. It is simple to operate the system to only provide flood mitigation in a mathematical model using historic rainfall events were all factors such as rainfall intensity, duration and amounts are already known. In the real world it must be operated in real time filled with a multitude of unknowns. It will not be possible to wait until a storm passes to determine how much ground water levels should be reduced to simulate historic flood protection levels. Flooding will have already occurred. Pumping must begin when the storm begins and ground and surface water levels begin to rise without the knowledge of whether total rainfall will be one inch or ten inches. No information is given in the GRR regarding operational protocol to achieve this phenomenal goal but there is little doubt that caution to prevent flooding will prevail.

There is also little evidence that the political will exists to allow agricultural crops, roads, homes and septic systems to be flooded as they do now, when a pump station to prevent such occurrences will then exist. As originally designed, the Central and South Florida Flood Control Project was never intended to provide flood protection for land west of the L-31N levee such as the 8.5 SMA (SEIS⁴, p. 21). After severe flooding in the 8.5 SMA caused by Tropical Storm Dennis in 1981 (GRR, p. 10), indirect drainage in opposition to the normal operating procedures was provided through the lowering of the L-31N Canal level and the diversion of water to tide (SEIS, p. 22). As a result, the area ground water elevation has been reduced and the ground water movement altered. The important Rocky Glades ecosystem and Everglades National Park have been adversely impacted. Increased damaging freshwater discharges to Manatee Bay and Barnes Sound have also resulted. Television images of homes surrounded by water and crops rotting in the fields bring pressure even Everglades restoration may find impossible to resist.

"Miami-Dade County's comprehensive plan designates the 8.5 SMA as "Open Land," which is intended for uses other than urban development, such as recreation and conservation." (GRR, p. 33) "However, within this area, there are numerous examples of parcels where zoning restrictions have not been enforced." (SEIS, p.41) Currently 321 houses and 193 mobile homes are located

³ General Reevaluation Report-8.5 Square Mile Area, July 2000

⁴ Final Supplement to the Final Environmental Impact Statement-8.5 Square Mile Area, July 2000

in the 8.5 SMA; a large increase over the last few decades and an indication that zoning restrictions were not being enforced (GRR, p. 30). No evidence is provided that strong local enforcement of zoning regulations will suddenly begin or that more people will not be placed in harms way. "Mr. Carlos Espinosa, Miami-Dade County, said demands for drainage and roads will continue in the 8.5 Square Mile Area, therefore the USACE assumption that density will not increase is unrealistic." (Minutes, SFWMD Workshop Meeting, 4-12-00, p. 3) The basic premise on which Alternative 6D is based is faulty.

A number of recommendations for achieving Everglades restoration were made by the Science Subgroup. A major recommendation was, "Maximize the spatial extent and landscape heterogeneity of the system to recover its ecological structure and function. Prevent further wetland loss, recover undeveloped degraded wetlands, and restore landscape elements that have been lost to development." If we are serious about Everglades restoration we must evaluate the alternatives suggested for the 8.5 SMA based upon their ability to achieve these restoration goals. Alternative 5, Buy-out certainly is far superior in achieving these recommendations than any of the other alternatives. It also prevents the problems previously discussed.

When compared to existing conditions, Alternative 5 will provide 479 acres more of total wetlands; 344 acres more of short hydroperiod wetlands; 135 acres more of long hydroperiod wetlands; and 1,075 more WARP⁵ Functional Units than Alternative 6D (SEIS, Tables 10, 11a, 11b). Because of the uncertainty of final CERP design, Alternative 5 "is considered more compatible with future restoration than structural options because there would be full flexibility". "Most importantly, restoration of the peripheral wetlands that were once found in the 8.5 SMA would allow for the full ecological function to be restored and prevent the loss of critical landscape remnants." (FFWCAR⁶, p. 110)

A primary objective of the Restudy of the Central and South Florida Flood Control Project and the resulting CERP was to reestablish natural hydropatterns and restore the natural ecological system within the remaining Everglades. One of the most problematic areas was Shark River Slough. After completion of the CERP, Everglades National Park determined that additional water was still needed to fully restore this area. Alternative 5 would not increase this problem. "No water depth or hydroperiod reductions would occur in NESRS⁷" (FFWCAR, p. 110). Alternative 6D would cause a 4.2% reduction in the water storage gained through restoration efforts (FFWCAR, p. 112).

Historically, an abundance of various types of feeding areas that became available at different times during the year provided great stability to the Everglades ecosystem. As a part of this diverse, complex system, the Rocky

⁵ Wetlands Rapid Assessment Procedures

⁶ Final Fish and Wildlife Coordination Act Report-8.5 SMA, July 2000

⁷ Northeast Shark River Slough, Everglades National Park

Glades Community in which the 8.5 SMA is located, played an important role as a major food source. During the beginning of the dry season when water levels were still high in other areas of the Everglades, declining ground water levels in the Rocky Glades concentrated food in the rocky depressions. (FFWCAR, p. 39) This declining ground water level also helped to provide water to, and extend the hydroperiod of the both Shark River Slough and Taylor Slough. During the wet season, some flow from Shark River Slough passed through the porous Rocky Glades limestone to the headwaters of Taylor Slough and on to Florida Bay. During periods of high water, flow passed over land. Because of its importance as the headwaters for Taylor Slough and critical location for maintaining ground water levels, much of the private land in the Rocky Glades has been purchased by various government agencies. Private holdings in the 8.5 SMA remains. "The future of a healthy and fully functional Everglades would not be met if these important peripheral wetlands were eliminated one piece at a time" (FFWCAR, p. 68).

One of the reasons for the endangered status of the Cape Sable Seaside Sparrow has been the loss of its critical habitat, short hydroperiod wetlands. Historically, habitat suitable for the sparrow existed in the 8.5 SMA. Potential Cape Sable Seaside Sparrow habitat adjoins the 8.5 SMA and should extend into the present and potential future restored short hydroperiod wetland areas of the 8.5 SMA. Even under the current conditions of reduced hydroperiods and partial drainage, sawgrass and muhly grass wetlands currently exist in the 8.5 SMA (GRR, p. 8; SEIS, p. 33).

As water levels are returned to a more natural, higher elevation by the CERP, short hydroperiod wetlands will occur at a higher elevation than the level at which they now exist. Currently existing short hydroperiod wetlands will become longer hydroperiod wetlands. Alternative 6D that create a levee around a part of the 8.5 SMA will prevent the re-establishment at higher elevations in that area, of this ecologically vital type of short hydroperiod wetland. With buy-out under Alternative 5, "concern for the residents are removed and future restoration can include the important peripheral wetlands within the 8.5 SMA" (FFWCAR, p. 69).

Higher land above the short hydroperiod wetlands is also vital to a complete and healthy ecosystem. Such dryer land that remains integrated into the system seldom receives consideration and has been lost to development at an alarming rate. Two endangered Florida Panthers with tracking radio collars have been monitored in the vicinity of but not within the 8.5 SMA. (SEIS, p. 114) Presumably, human presence has caused this avoidance. Purchase of this area through Alternative 5 could increase habitat for this endangered species.

Potential water quality impacts are also a concern. "The presence of underground fuel tanks within the 8.5 SMA constitutes a potential source for petroleum contamination of the Biscayne Aquifer..." (GRR, p. 33) The Biscayne Aquifer breaches the surface throughout the 8.5 SMA (GRR, p.24). An

alternative that maintains or increases development in the 8.5 SMA is of special concern. During a 1999 reconnaissance of the 8.5 SMA, DERM⁸ identified numerous parcels where unregulated activity is taking place. These activities included numerous animal pens, abandoned vehicles, unidentified waste piles, outhouses, and garage and storage sheds. "These land use activities could potentially impact soil, groundwater, or surface water quality in the 8.5 SMA." (SEIS, p. 50) Following Hurricane Irene on October 22, 1999, DERM took samples of standing water at 10 locations in the 8.5 SMA. They detected numerous organic compounds, metals, phosphorus levels as high as 930 parts per billion, and a large number of violations of the total and fecal coliform standards. (SEIS, Tables 2, 3)

Approximately 2642 acres in the 8.5 SMA is farmland. The Environmental Protection Agency has estimated that annually 8 million pounds of pesticide active ingredient are applied to these lands. No study of pesticide contamination of the agricultural canals in the 8.5 SMA has been done. (SEIS, p. 25, 26) Although the South Florida Water Management District monitors the regional canal to the east of the 8.5 SMA, over one-half (52) of the 88 local use pesticides are not monitored. (DSEIS⁹, p. 30) Even on low density residential lots of 1 acre or more there is plenty of room for agricultural activity (fruit trees, etc.) on the open space surrounding the house and septic tank. Pollution from such activity could enter both the ground and surface water.

Alternative 5 eliminates human activity that creates pollution in the 8.5 SMA. Alternative 6 provides a levee along the east side of the drainage canal within the 8.5 SMA to prevent direct runoff from entering the canal. However, nothing is provided on the west side. During heavy rainstorm events, water levels often rise above the land surface and could easily enter the canal from the west. A levee provides no protection from pollution entering the canal from the groundwater on both sides of the canal. A detention area located south of the 8.5 SMA is provided for drainage water. No assurances are provided that it can safely treat the diverse kinds of pollutants potentially present in 8.5 SMA drainage or meet the nondegradation standard that applies to the Outstanding Florida Waters of Everglades National Park.

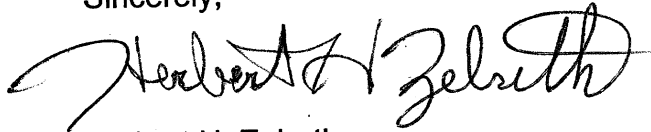
After considering hydropattern effects, wetland benefits, endangered species, ground and surface water quality and the goals and objectives of Everglades restoration, the total buy-out Alternative 5 should have been the logical choice. "Of all the alternatives, Alternative 5 maximizes the environmental and ecological benefits to ENP and NESRS." (GRR, p. ES-5) The Corps of Engineers' selection of Alternative 6D as the preferred alternative does not appear to be justified. Although the relocation of the residents and loss of current agricultural land is regrettable, the overriding public interest appears to justify this impact. If it is determined that it is no longer acceptable to take private land to achieve goals

⁸ Miami-Dade County Department of Environmental Resource Management

⁹ Draft Supplement to the Final Environmental Impact Statement-8.5 SMA, April 2000

and objectives important to the public interest, a serious precedent will be established and final and complete implementation of CERP will be seriously jeopardized. The current plight of the Everglades demands that we stop the political games that have caused such past ecosystem destruction and give top priority to Everglades ecological restoration. I urge you to support the Everglades restoration effort by recommending total buy-out of the 8.5 Square Mile Area.

Sincerely,

A handwritten signature in black ink, appearing to read 'Herbert H. Zebuth', written in a cursive style.

Herbert H. Zebuth
12029 59th Street, North
Royal Palm Beach, Florida 33411

Cc: Col. James G. May
Elmar Kurzbach